

A. Wingham 1815.

A  
D E B A T E  
ON THE  
*Justice and Piety*  
Of the Present  
CONSTITUTION:  
UNDER  
K. William.

In Two Parts.

{ The First relating to the *State*,  
{ The Second to the *Church*.

BETWEEN  
*Eucheres* a CONFORMIST,  
AND  
*Dyscheres* a RECUSANT.

By *Samuel Hill*, Rector of *Kilmington*,  
Author of *Solomon* and *Abiathar*.

Psal. 7. 8. Judge me, O Lord, according to my Righteousness,  
and according to mine Integrity, that is in me.

*Inter utrumq; tene.*

*Obsequium amicos, Veritas Odium Parit.*

L O N D O N,  
Printed for *John Everingham*, at the Star in  
*Ludgate-street*, 1696.





Erudito Reverendo Sanctoq;  
Sacerdotum Collegio,  
Diæceses Bathoniensis & Wellensis  
Clero florentissimo,  
Post Patrum Primævorum in causâ fidei  
Vindicias,  
ab imbelli prævaricatorum nequitia  
Usquequaq; tutas adhuc, & inconcussas,  
Vestro quinetiam pro Authore Suffragio  
publico  
Invidiæ adversus & obloquii tela  
Munitas pariter, ac cohonestatas;  
Amicas hæc denuò,  
Ecclesiæ pariter ac Patriæ φιλοστέργες,  
Pacisq; sacra conciliatrices,  
Pro Justitiâ publicâ, & Pietate  
Contra Seditionis, Schismatis, & Erastianismi  
dmissi opprobrium,  
admittendiq; periculum,  
susceptas Apologias,  
Integerrimâ fide,  
Summo studio,  
Conscientiâq; quàm maximè castâ  
Votivas dicat,  
Perq; gratas optat

Vester S. Hill.

## ERRATA.

**P**Ref. p. 1. l. 17. for *dismissed* r. *discussed*. *ibid.* l. ult. r. *appear* or *seem*. Bo  
p. 21. l. 14. r. *Desertion* p. 22. l. 5, 6. r. *Desertion* p. 42. l. 32. r. *At  
ticyra* p. 43. l. 1. r. *Prosecute* p. 45. l. 27. r. *It's* p. 57. l. 24. r. *Construction*  
p. 63. l. 26. r. *off* p. 64. l. 7. for *and* r. *an* p. 65. l. 12. dele *an* p. 71. l. 8.  
County p. 82. l. 29. r. *there can be* p. 83. l. 34. r. *at full* p. 87. l. 25. for *the*  
r. *the oath* p. 91. l. 15. r. *title* *ibid.* l. 31. r. *to surmise* p. 95. l. 71. r. *to sh*  
for p. 96. l. 33. r. *the moral* p. 104. l. 8. r. *if we admit* p. 105. l. 8. r. *say* p. 10  
l. 12. for *of Constitutions* r. *of Constitution* p. 110. l. 23. r. *it had not been* p. 11  
l. 21, 22. for *excesson* r. *excision* p. 156. l. 35. r. *invert* p. 163. l. 27. for *fr*  
r. for p. 165. l. 4. r. *takes it in* p. 165. l. 31. r. *morte* p. 168. l. 9. r. *h*  
p. 170. l. 27. r. *imprudently* p. 172. l. 3. r. *I never look* *ibid.* l. 27. r. *Possess*  
p. 185. l. 9. for *sending* r. *sounding* p. 162. l. 8. r. *Notion* p. 162. l. 37.  
comes into p. 163. l. 32. for *using* r. *refusing* p. 167 l. 23. r. *presumed* p. 17  
l. 17. r. *on evil* p. 174. l. 10. r. *a form* p. 176. l. 10. r. *was from* p. 172  
17. r. *Office* p. 8. l. 31. for *excuse* r. *executep*. 199. l. 12. dele *which* p. 20  
ult. r. *Frischmuth* p. 205 l. 19. r. *peculiarly* p. 209. l. 27. r. *anothers* p. 211  
8. r. *procedure* p. 211. l. 30, 31. r. *who thinks the Tenant forsworn for submit*  
*to the new Possessor* p. 213. l. 30. r. *all to the Secular, &c.* p. 225. l. 6, 7. r. *f*  
*any thing against him himself* *ibid.* l. 32. r. *in dubitable* p. 230. l. 36. for  
*Case* r. *the Case* p. 231. 32. for *and* r. *am* p. 233. l. 31. r. *is it* p. 235. l.  
r. *validly* p. 137. l. 1. dele *of* p. 239. l. 18. r. *Aerianism* p. 248. l. 12.  
and r. *an* p. 242. l. 22. for *if* r. *is* p. 252. l. 30. after *&c.* dele *and* p. 2  
l. 8. r. *to do good* p. 265. for *but will* r. *that will* *ibid.* l. 15. r. *Capacity to Eccl*  
p. 97. l. 13. for *might* r. *weight*.

---

TO THE  
READER.

**I** Here present thee with a Book, which either Destiny or Calumny will drag out into the Public, whether I will, or no. The pretended University-man in his Remarks upon my Defence of the Fathers, having descended to the humble Glory of traducing it, and me, in his Post-script to Mr. Chiswell, by ill Characters and false Histories, has enforced this involuntary Publication. The Character he gives of it, is, that it is a Trifle; which he presumes of it of his own Sagacity, without ever seeing it; that he is told by a good Hand, that it falls on Mr. Dod--ll's Principle with great Fury, and treats the Jacobites very brutally; The Design herein is to preclude my Interest with the Jacobites, to whom he says I am relapsed. His historical Account is, that it was written, and sent up to a Bishop for Publication to divert a Storm expected on the Vindication &c. by engaging my Lord of Canterbury, and all the Bishops against my Adversary, that however finding the Trifle slighted, I earnestly desired that Bi-

## To the READER.

*shop that it might not be printed, that so if I could get it again into my Hands, I might deny the Writing thereof to the Jacobites, as I begin to deny the other. The Intention of this is to represent me to all the Powers as an Apostate against the Government, Fool and Knave all over, that so I may have no Countenance in it, but be abandoned by all Mankind.*

*Before therefore I offer my own true Account and Apology against this Slander, it is easily observable, that his Passion has marred his Art of Detraction in giving Marks of its apparent Falshood. For what Clergy-man can presume to put a servile Office on a Bishop, or what Bishop can be imagined so unresenting as to admit it, or after Admission to endure a Countermand from the vain Presumer? Besides, if it were rejected as a Trifle, the Bishop cannot be supposed to promote its Publication without Disgrace and Reproach, which none of them have reason to incur for any of their Clergy, especially against the Sense of the whole College Episcopal. And if so, then how could I earnestly desire the Bishop that it might not be printed, when it had been before rejected to me as a Trifle? He seems as vain also in hoping that that Bishop, would keep it from me to refute my supposed denial thereof, as if a Trifle were worth a Bishop's keeping, or, as if any Bishop can be so unjust as to detain from any Man what has been for a while entrusted with him. I think this is rather an unhandsome and rude Usage of  
that*

## To the READER.

that Prelate than of me, to whom I leave him to make satisfaction.

The truth is, this Book was first written about Whitsuntide, Anno 93. before the very Oral Discourse of Warminster it self, and while the Heat of its first Conception ( animated by the Advices of Learned Friends ) lasted, was designed then for the Press. But that Ardor being soon cooled, I designed to review it, and procure a Friend by it ( if I could ) among the Fathers, not by its Publication, but by private Oblation. Accordingly after some Deliberation, I resolved not to present it any Bishop introduced into a deprived Diocese, lest at the same time I should seem to flatter, and abuse him with a pretence of bringing succour to their Cause, as if it needed any Advocateship, especially such as mine. For truly they that write honestly for a public Constitution, must not pretend a service to Authority, but the Benefit only of those that are under it. So I resolved to seek a Patron among the other unconcerned Bishops, with whom I could hope my Principles would find favour, and so adventured it into the Hands of a Prelate, whose universal merits are superior to his Character; by him it was recommended to my own Right Reverend Diocesan, and he by Letters from London acquaints me with his desire of seeing it, and as my Duty was to obey herein, I sent it him. Upon the reading of it, he greatly inclined me to the Publication; yet withal forewarning me, that it would stir up Adversaries, he would

## To the READER.

~~not~~ press me against my own Judgment. During this intercourse the other Book was in the Press, and almost finished, and as yet my Diocesan knew nothing of it. Whereupon I wrote to his Lordship, that I was engaged for the Faith, for which I expected much trouble, and I knew not what would become of me; but his Lordship not knowing any thing more particularly in the matter, supposed my fears (as he reputed them) causeless. Upon which I conceded to what his Lordship pleased to do, or have done. He thereupon puts it under the judgment of other learned Men, and it being by them well liked, designed (with some little variations offered me) that it should be Printed. In the meanwhile the storm pursued me without any hopes or intermission, and it was loudly given out that it was intended by the agreement of the Bishops, that I should be suspended by my Bishop, and Prosecuted upon the ruining Statute, except I would prevent it by Humiliation, &c. The good Offices of Friendship that were really done me among several of my Lords the Bishops were concealed from me, and so I expected nothing else but an Excommunication, or such a Persecution for the Faith, as must have forced me from the present Communion, whereupon I had many causes to stop the Publication of this Book, for having but bad Eyes to engage in long Studies, and against many Adversaries, and under such prospects of Expulsion out of this Church, I thought it ~~not~~ only imprudent to draw on me more quarrels

## TO THE READER.

rels in the defense of a Communion from which I expected ejection, but ridiculous also, which I am resolved no terrors, nor Persecutions (by God's help) shall render me. But I must with Honour acknowledg, that all this Authors incentives have not been able to whet my Metropolitan (nor any others that I know of) to that Spirit of Persecution which this Postscript has ascribed to him, so that I have no need of a Sanctuary among the Jacobites; tho' I hereupon shall take occasion to let this Author know, that such as steer by their private Interest in their choice of Parties, and are as ready to change their Faith as their Allegiance, and dispose Men by the same Arts to follow them in Ecclesiastical as well as Civil Turns, do make more Jacobites by their Prevarications, and thereby become more injurious to the public Peace and Powers by far than any the most important and importunate Remonstrants against the Government.

I have but one thing more to add in a Apology for the Air and Structure of this Book. I hope there is no Man (no not the raging T. B. nor the more raging Postscripter) will be able henceforth to call the Style Brutal. I press indeed the Arguments between the Parties and their principal Authors with the utmost Vigour, as without any Incivility, so without any partiality to either side, and this not only as a Disputant but as a Casuist, which ought to drive on all considerations home thro' and thro' the Conscience. This Justice requires in a Dialogue between Parties, where not only

## TO the READER.

ly the reasons are to be stretched to the utmost, but the Zeal of them also personated. In this T. B. pretended Solomon and Abiathar to be defective and treacherous, which Accusation, tho' false and causeless, yet has made me to carry on their Person here with much more Acrimony against their Opponents than otherwise I should have done. This may indeed displease the Learned Men concerned herein against them for ought I know, but to convert the divided I thought it expedient to shew my self severely equal and indifferent in speaking for them in their own Spirit rather than my own, and freely owning their Truths as well as ours. And if this does not satisfy the great Men, whose Hypotheses are here necessarily dismissed, I hope they will consider however, that I have a Right to defend my own Principles in Solomon and Abiathar with as much strength and ardour as they have asserted theirs. And they that have particularly and by name taxed that Pamphlet, who were never touched by me for any of their writings before, must concede me a liberty to examin what they have said against it and it's Principle. It is an unhappy Misfortune that two of the greatest Ornaments of the Nation should herein run so widely to the Extremes, the one so far as to overthrow the Right of the English Reformation, the other to the prostitution of the Powers Hirarchical to Rapine and Violence, by laying Principles, which yet both of them think necessary to the Churches Preservation.

I have



## TO the READER.

I have gone the middle way between these admirable Men, (who are indeed above all the praises, that I can give them) and since I find that a new Disputation will be moved herein, I do most heartily beseech those two great Men calmly and candidly to treat of their Principles and their Consequences in private first, and equally endeavour to remove all Prejudices, and to quish whatsoever mistakes shall be joyntly discovered between them, and when that is done, shew such an example of mutual Charity and Self-denial, as may render them (if possible) more admirable to the world than they already are, that so we may hasten with all possible earnestness to an happy Union, or at least that the fairest grounds may be laid for it. The Edition of this Book is indeed very uneasy to me, but since necessity is laid upon me to publish it, and that as it was written, I shall be glad, if it may prevent a reen-flamed Controversie, which is threated in Print by a Learned Jacobite, or may offer any such notices as may contribute to their exacter considerations. But for my own part I resolve never to appear in this Controversie more, for as it may be easie for learned Men to refute and inform me, so I can bear instruction not only with ease, but with gratitude also. whereupon I have nothing more to offer to all Authors of worth concerned, but that they will not think themselves wronged till they have thoroughly discussed the matters between us impartially, and if after that I shall appear to seem to have done amiss, I do  
here.

## To the READER.

*hereby proleptically beg their forgiveness, and upon the discovery thereof will particularly retract it, and never run such an hazard more God of his infinite mercy give us all a temper abstracted from all partial interests and prejudices, and a sincere Charity and Equity, that may fit us for a right understanding of the things that belong to our Peace, and Duty toward God and Man. Amen.*

---

To

---

---

*To his very Passionate Adversary, T. B.*

HEALTH and P E A C E.

SIR,

**A**S I gave you no provocation to such unhandsome reflexions, with which you have bespattered me, so 'tis the Opinion of wise and learned Men, that you are to be neglected as incurably rude, and disingenuous. And I truly am so far of their Opinion, that I ought not to answer you according to your Folly, lest I become like unto you. But as little regard as is due to the Voice of the Slanderer, the Cause of Truth, and the Consciences offended by involved Prejudices, deserve a tender Deference and Care.

On which consideration I have thoroughly traversed all that seems pertinent in your Letters, and some M. S. Reflexions sent me (I suppose) from some other Hand. And not only so; but I have examined some of the most exquisite Discourses and Principles of your greatest Authors in this Controversie, as well as those of your greatest Opponents; And I hope in all my Determinations, between you and them, I have done impartial Justice; if not, I have exposed  
my

*The Epistle to T. B.*

my self unto public, just, and severe Correction.

Of all your criminal Imputations there is but one that seems to deserve any notice, *viz.* that which taxes me for giving the Dialogists in *Solomon and Abiathar*, those technical Names and Characters. Upon which your Complaint being not only loud, but in some Degree specious, does indeed oblige me to account herein. Nor shall I decline whatsoever is reasonable. Whereupon I sincerely protest, that I took the Names from the known Sense, each Party has of the others Temper. For the Conformists to the present State, thinking the Recusants thereof too hard and untractable, I from that Notion, name my Recusant *Dyscheres*; And the Recusants thinking the others too easie and yielding, I from that Apprehension call my Conformist *Eucheres*.

And *Eucheres* has the Character of a Conformist for conforming to the present Constitution, and *Dyscheres* of a Recusant for refusing this particular Conformity. And no Man of Sense can really imagine, that I had any worse Intention, since no Man can think that I would expose the Deprived as Fanatic's, and in the Person of *Dyscheres*, I introduce them making a professed Renunciation of Popery in several Places, with which they are never charged by my Conformist.

And now if there be any Grains of Candour and Human Tenderneſs left in you, can you

*The Epistle to T. B.*

you imagine that you used a proper Method to heal, or settle my distressed and doubtful Spirit, who after several unanswered Letters written to some of the greatest Doctors on both sides of the Division, and others of middle Temper, was at last upon their neglect forced to turn a Publick Supplicant to the learned World for succour and satisfaction? If this be the way of handling tender Consciences, if this be the Oyl you pour into their Wounds, the good God have more Mercy on the Patient, and put him under gentler Hands.

But if you had judged me an improper Object of your Humanity, yet a due concern for the Reputation of your Cause should have influenced you unto more Decency. For a good Cause needs no Supplies from a Scavenger's Cart, and ill Language ever supplies and discovers Defect of Reason as well as of good Nature, and never proselites a calm and thinking Man, but rather seals up the Offended in their former Perswasions, and alienates mild Tempers from such sower Communion: When you have well considered the following Debate, you will have occasion for second Thoughts, to which in the Interim I leave you, and subscribe,

*Sir,*

*Your Humble Servant.*

*The*

## The Ground of the First Part.

**T**Hat whensoever the Land is brought into a State of Anarchy by any Confusions irremediable by the ordinary Rules of Law, thro' the King's Incapacity to govern it, upon Departure, Oppression, or otherwise, the Estates of this Nation may admit such a Form of Settlement for the time being, as the Exigences of Affairs shall seem to require for the common Preservation; and that such Settlement shall oblige the Conscience of the Subject, till the old ordinary Rules can be fairly recovered.

---

## The Ground of the Second Part.

1. **T**Hat tho' secular Laws for spiritual Censures cannot pass into an Ecclesiastical Effect without the Consent, and Executive Concurrence of the Church, yet the Conscience of the Church is bound to admit such Laws upon just, and necessary Causes.

2. That Recusancy to civil Constitutions is a just Cause of spiritual Censures, and of Laws requiring them.

---

---

A  
DEBATE  
ON THE  
JUSTICE  
AND  
PIETY  
Of the Present  
Constitution.

---

PART I.

---

*Concerning the Civil Change.*

*Dyscheres.*

**B** Rother *Eucheres*, I am glad I have found you at home at this time, in which I have leisure to receive those kind Offices, which I could not admit at the time of your first Invitation: And I have another design in this Visit; that we may Review and Reflect upon the matter of our last Conference.

E

for though you seemed then, to pinch me somewhat hard; yet having since imparted your Arguments to my Friends, and Consulted their Judgment upon them; I find them not so Herculean as you fancy them, but very feeble and nerveles, when undertaken by abler Masters.

*Fucher.* You are doubly welcome on your double Errand; but have you examined among you, the whole web, or only some shreds or fragments of that Discourse?

*Dyscher.* *Though it be not worth my while to ransack it in every part of it, yet I do not intend to omit any thing very considerable; and I will use my best endeavour not to mistake your Sense, &c. T. B's. 2d. Lett. p. 6.*

*Fucher.* Be sure now be as good as your word; and withal take care not to pervert, as well as not to mistake, my Sense; for otherwise, you will expose both your Understanding and Integrity: and I am not yet so dull, but I may soon discover you, how involved soever your Frauds may be: And now upon this Premonition, I desire you to sit down, and enter upon the Debate.

*Dyscher.* *When I told you nothing but truth, that the Present State is worse than a Deluge of Popery, for that now the Daughter of Sion is become an Harlot, the generality of her Children, Apostate and Un-churched, and that the Faith and Communion is with the few, &c. You question, Whether Submission to the Present Constitution, can be proved a Sin? As if breaking Lawful, and taking Unlawful Oaths, withholding ones Right and giving it to another, the overthrowing the constitution of the Kingdom, and violating the Laws of God, were no Sin. Then you further say, That admit it to be a crying Sin; every such Sin, doth not unchurch single Persons or Societies: But yet however, you ought to Repent, and not persevere in your Sin; since it is one of those Sins that shuts out of the true Church of God: For if it were necessary, I could prove that its Principles destroy the*



*the Churches Fundamentals and Structure ; if such Principles which destroy all Morals, and all Faith and Truth among men, can be said to do so ; by which men may exclude themselves, as well as be thrown out by others, without an Authentick Act of an Ecclesiastick Judicatory ; and your instance in the Roman Church is Insignificant, for we do not communicate with it ; but that of the Eastern Churches is still less to the purpose ; for I am not satisfied, that either they have condemned us, or we them, as Schismatics ; and Dr. Basier, was desired by some of the Greek Clergy, to Communicate and Minister among them, neither did he refuse it. T. B.'s 2d. Lett. p. 10, 11.*

*Euchr. But, Brother, it is not enough to call things by hard Names ; but it is necessary to shew, wherein the iniquity consists, and by what Law. For submission to a Civil Constitution after its settlement is no Perjury, Robbery, Rebellion nor Impiety, if men contribute no antecedent Evil to the Change ; and it is this meer Submission which I undertook to defend, as being the only thing that can be charged on the Ecclesiastick Body. And tho you pretend it unnecessary, yet you can never carry your cause, that we are Self Excommunicate upon the malignity of our Principles, except you prove it, and shew that our Maxims destroy all Morals, and all Faith and Truth among Men ; since you load us with such an heinous and general charge ; and I know not to what purpose you discoursed me last, or discourse me now, except it be to convince me of the Reality, and Anathematizing guilt of our Sin in this Submission. Here then you must to the Law, and to the Testimony, and make up a very exact proof in order to Conviction ; for Men are not to be harangued into condemnation, by meer unproved and general clamour, but by very articulate evidence only, which therefore I shall expect from you in the course of this Conference. In the mean time, when I alledged, that*

we own the Roman and Greek Churches, to be Churches, notwithstanding their far greater Pollutions and Confusions than can be imagined in our present Ecclesiastical Change ( that hence I might evince us not to be Unchurched; *i. e.* cut off from being Members of the Church Catholick, as not having been condemned out of it by any Ecclesiastical Sentence ) 'tis strange you should censure this instance for impertinent, upon these pretensions, that we refuse the Roman, but admit the Greek Communion: for by your favour, in order to Unchurching ( which very intelligibly is the making us no Church of Christ ) you must have proved our Change more censurable, than all the Pollutions of the Roman and Greek Churches. And since you accuse us as Self-Excommunicate, and therefore incapable of your Communion, which yet you deny not to the Greeks, as being with you no Schismatics, the instance of that Churches Corruptions was not less, but far more pertinent to our Cause; for if their Corruptions are far greater than ours, and yet cut them not off from the Right of Catholick Communion; I think we are as much entituled to that Communion, who have far less and fewer Irregularities: So that except you can prove our Change more Irregular than the State of the Greek Church, you cannot out us of that Communion you assert to them. Here indeed you saw your self pinched, and so shift off the matter with a piff, as if I would be shaken off with an empty Scoff of Impertinence: No, no, I will sit a little closer on your Skirts; and though I shall not exagitate, or upbraid all the known disorders in that distressed Church; yet will I object to you the many Arbitrary Changes of their Patriarchs, made by a Mahometan Emperor, and admitted by them *toties quoties*; whensoever the Grand Seignior has a mind to ease their Purfes of that money, which the new Patriarch is to tax on the Church as the price of his Advancement,

vancement, without any other Provocation or Inducement whatsoever. Is not this a greater corruption than any can be imagined in our Change? This you know was what I intended, and yet you condemn not them as Schismatics; though here are frequent Deprivations, and New Advancements admitted by the *Greek Church* to the Will of an Infidel Prince, without any other crime of the Deposed, and only for Monys sake?

*Dysfeber.* I did indeed in our last Conference \* censure this Blemish in the *Greek Church*. But here I will \* *Sol. & Ab. p. 24,* give you the answer of one 29.

of our most puissant Advocate concerning this disorder in the *Greek Church*, with his Apology for the like frequent Depositions of the Jewish High-Priests. \* *In these alledged* \* *Christ. Commun.*

*State-deprivations of the Jewish High-Priests, either of Abiathar by Solomon, or after they* Part 2. cap. 3. p. 32.

*came under Roman subjection, of the Chief Priests by the Roman Procurators, there was only a Change of Persons, but matters of Religion went on every thing the same, in Doctrines, Practices, Prayers, Sacrifices and Services of the Temple, and the Synagogues; and when these are not corrupted, Gods faithful Ministers may yield their personal claims to State-Deprivations, to secure Protection, and Civil Benefits to the Church. This also clears the instance of the Submission of the Greeks on the frequent Deprivations of their Patriarchs by the Turkish Governors. The benefits of Incorporation, which they propose to secure thereby, are not the most tempting, lying not so much in being privileged and benefited by the State, as in not being persecuted, but tolerated under it. And their submission for keeping on this State-benefit, such as it is, is not without detriment to the Church, (tho' their breaking with the State they fear would be more*

*detrimental*) the Turks making their new Advancements for Money to be levied on the Church by the new Patriarch, to the countenance and growth of great Corruption, and to the bringing of the Church in debt. But as to the course of Religious Ministrations, they are the same under both Patriarchs, in the same Doctrines of Faith and Manners, Prayers and Publick Offices. But now you know with us here is a change in all these parts of our Religion, in teaching men to swear falsely, to rob our King, Bishops and Priests, and to pray for Robbers and Usurpers against the just and true Proprietors.

*Fucher.* But all this Charge of Alteration in Religion is downright Calumny, incapable of any proof in any one particular. For we preach only Submission to a Legal Change of Governors, and pray for them that are set over us by Legal Rules of Constitution. Therefore tho' Governors, like the state of all things temporal, are liable to changes, yet the Rules and Forms of our Religion and Morals are still permanent and unaltered. And here, I think, I may seasonably tell you, that the alteration of our Sovereigns was more legal than the change of the Theocracy to *Chaldean, Persian, Græcian* and *Roman* Sovereigns; yet even for these the Jews were to offer Prayers and Sacrifices; and so is the *Greek Church*, to pray for the new Grand Seigniors brought into the Sovereignty, upon the rebellious expulsion of the former, yet surviving in Bonds and Prison, without any scruple of Allegiance to their new Master hereupon. Now if they ought to make an Ecclesiastical Opposition to such an Imperial Change, then their ready conformity thereto, puts them into that same state of sinful Religion, which you charge upon us; and how then are they in, and we out of Right to Ecclesiastical Communion? But to speak truth, I could not have thought, that men of such Primitive Rigour and Purity could Igitimate that great corruption

in the *Greek Church*, which, tho' of it self it doth not actually and totally Unchurch them, yet it is a most deplorable profanation of the supreme Order in their Hierarchy, and such as a General Council, upon the perpetual Sense and Principles of the Church Catholick, cannot but condemn for impious and irregular. But now I am under a passionate concern for this Author, lest this Principle of his bring him under that Heresie, which your learned Vindicator of the deprived Bishops, if he keeps up an impregnable impartiality against all Errors, will be apt to find in it. Sure I am here is laid a Rule for our Church to admit from the State even the most arbitrary removes and changes of Bishops, for no cause at all, but only to humour the State in Tyranny, or Simony, according to Doct. *Hody's* Doctrine: and here is conceded far more than was by the subscription of a Popish Convocation for fear of a Premunire, and more than the Pope, or *Henry VIII.* ever arrogated to their Headship, or Supremacy; and to use your former words,

\* a blemish not to be endured in \* *Sol. & Ab. p. 29.*  
any Church, whatsoever it in-

curs for the Opposition. But so it is, and so it will be, when men are pressed too hard in point of Argument, that to avoid one absurdity they run into another, which is many times worse, and more notoriously offensive.

*Dyscher.* Well then, we'll let alone the *Greek Church* herein to Gods Judgment. But as for you, that think to shelter your selves under their shade, you are not capable of that their Plea; For I do not know that we want an Ecclesiastical Judge. Our Metropolitan, with his Suffragans, are a sufficient and proper Judge; And if they have not *lata sententia*, (which there may be great Reason to forbear) yet in *Praxi* their Judgments are sufficiently declared, T. B's. 2d. Lett. p. 21.

*Eucher.* That the deprived Metropolitan and Fathers are a proper Court, or Council of Ecclesiastical Judges upon all conforming Bishops, Clergy and Laity of the Realm, I do utterly deny for many Reasons. In the Province of *York* they have no jurisdiction; nor can they make a distinct Synod from the rest of their Colleagues within the Province of *Canterbury*. So that had a Synod of meer Bishops been called therein before any Bishops made by King *William*, this had been a Synod, against which no Uncanonical Ordination or Enthronement could have been objected, and yet the Majority of these would have condemned their Recusancy, if we may judge of their Sentence by their Conformity.

But further by our Constitution, the Body of the Clergy are concerned in our Synods; and which way think you would your Cause have gone in a full and Canonical Convocation? This your wife Author of Christian Communion well saw,

and therefore would not adventure the issue \* to a Synodical Determination. But

\* *Part 2. Ch. 4.*

yet neither have these Fathers given a definitive Sentence of Exclusion upon us, which yet is necessary, where the actual Exclusion passes not merely on the uncontested notoriety and malignity of the Crime, which we suppose at present not to be our State. And let the Reasons of their forbearing Sentence be what they will, yet as long as we are not self-condemned, but stand upon our Defence, we are not yet actually excommunicate by any effectual judgment of these Fathers. Nor can their practice amount to so much, either legally, or intentionally. Time was, and yet is, I believe, when several of these Fathers would not censure our Submission to the present Civil Government as criminal and heinous. And one of those Prelates in a publick Oration to his Clergy, strictly

strictly charged them to abstain from all oblique Reflections on each other, for refusing, or admitting the Oath of New Allegiance, but to retain Charitable Opinions each toward the other ; which being a publick act of that Father's at the head of his Diocess, will not (I hope) be denied as a Lye ; nor may I be condemned for uncovering a secret, since this was not such, nor transacted in a corner ; nor need that Reverend Father be ashamed or unwilling to own it ; since it was a most Illustrious Indication of his Excellent Piety and Moderation, but withal a clear confutation of that pretended censure, which you place in their Practice. For the Practice of not Swearing, may in several Men have several causes ; some may condemn the Allegiance ; some may doubt only ; some may have aspects on another Revolution ; others to the reproach of our, and to the esteem of another Party ; some to their former Writings or Pretensions, points of honour, or the Fatigues of a Publick Station. So that except one unanimous Sentence against the Allegiance be judicially given, the argument from practice is very unconcluding : But besides, the Practice of the Majority, will as much condemn them, as theirs can us, if this be of any such importance toward a Judicial Excommunication : So silly it is for Men to hunt after such feeble Cavils, on purpose that they may seem to have somewhat to say, and not be born down by that Truth against which they have formed a Faction.

Dyscher. *Well, However I told you, that there is danger in your Communion ; and I should have added, that the sin is unavoidable in it, because the Secession was on your side from us and Righteousness, we still continuing as we were : but see I pray, what answer you made me hereupon, that I may take off the vizor, and lay open your Hypocrisie. You say, \* that though our Church* \* Sol. & Ab. p. 6.  
*Justly and Absolutely rejects the*

*Romans*

Roman Monarchy, yet she will not refuse any Lawful Communion, or correspondence with it in any good Ecclesiastical Negotiations, consistent with Integrity; saving still a Publick Remonstrance to all her Pollutions. What can be the meaning of this, but that your Church is ready and willing to joyn in Communion with the Church of Rome, as many of your Brethren take the Oath, with a Declaration. — This, and no other can be your meaning, else your Argument and Parallel is senseless and insignificant: for thus it follows, so should you communicate with us in all that is Lawful: Now it is actual Communion in all publick Offices and Worship, which you require from us, and the reason you give, why we should pay it, is in the words before cited, the sence of which must be, that your Church is ready with a Remonstrance to afford the same Communion to the Church of Rome, that is, Actual Communion in Publick Worship. — So with an insignificant Remonstrance, you can go to Mass, and be willing to do it. See this and a great deal more such stuff in T.B's 2d. Lett. p. 12, 13.

Eucher. This is indeed a notable fetch, that I should excite you to rejoyce with us for Redemption from Popery, and yet profess a readiness and desire to communicate in it; and in that very communion to remonstrate against it. This no doubt, would be a very pleasant way of accordance with the Roman Forms; and yet at last, when I invited you to Communicate with us, in all that is Lawful, I meant only, what you think Lawful, what is by us both confessed Lawful, not to what we only think Lawful against your opinion; and to this end \* that you might the better heal what you think we do amiss; and so much agree-

ment I confess we owe to all that is good in the Church of Rome, and by us acknowledged for such as well by them. But that I invited you not to any actual Communion in any thing you judge Unlawful, while you judge it so, appears in that I required  
not



not your presence to \* that Prayer of New Allegiance on the 29th of *May*, while you are under the perswasions of its Impiety. But in truth, having ( as I thought ) proved us not to be actually Unchurched ; I willed that you should yield us so much Communion, as may signifie your acknowledgement, that we are yet of the Church of Christ, *viz.* in all those Offices, which you can judge Good and Lawful, in order to an easier accommodation ; for so I presume of this Church, and of you too, that you would not refuse any good Ecclesiastical Negotiations ( which import some, though not a plenary Communion ) with the Church of *Rome*, in order to a Restitution of the Churches of Christendom to a Primitive Frame, were the Church of *Rome* disposeable thereto. And they that will deny this to any corrupt Churches, I think are not real Christians, nor so much as externally qualified Members of the Church Catholick ; and to this innocent purpose and consequence only were my words so exactly ordered, with a design to stave off all Catches herein, that nothing but an inexcusably wretched spite and bitterness could have hewn out of them so perverse and undesign'd a construction.

Dyscher. *I am not satisfied, that you will allow our Deprivation to be a Persecution, only on supposition, that it be for adherence to the Doctrines of the Church, or the Laws of God. What if neither the Laws of God nor the Church had been concerned, and they had had only occasion to stand to the Laws and Constitutions of the Land, which forbid force against, and Deposition of Kings, and exclusion of the Heir ? I think this had been no ill Cause, &c. T. B's. 2d. Lett.*

Eucher. I did not mention the Laws of the Land; because till they are Authentically Vacated, the Laws of God, and the Doctrines of our Church, do assert their obligation on our obedience, so far as  
it

It is in our power to perform it; and a voluntary violation of the Laws and Constitutions of Civil Government, is a violation of the Laws of God, which the Church Preaches in her Doctrine. Therefore I allow you, that adherence to the permanent obligation of the standing laws of the Land is a good Cause, for the maintenance whereof, all Sufferings are Persecutions, and all the voluntary Agents in them, Persecutors. But if the reason or obligation of any Law ceaseth, or if you mis-understand Laws, and will oppose your private Judgment on them, against the received and constant Judgment and Practice of the Nation on our Laws, then your Sufferings upon such Prejudices cannot come under that black Character; which is a thing enquireable between you and me.

*Dyscher.* Then I take it for a very odd demand, that we must give in a very clear proof, that we are Ejected for adhering to the Laws of God. *I pray, who are they that ought to bring this clear proof? I have heard some say, that it is an Axiom in Law, that they who expect the benefit, ought to make the Proof: Now you get all into your hands, and would you give no Reason for it? And yet it would be but to little purpose to prove to a Thief, that he has stolen my Goods.* I. B's. 2d. Lett. p. 14.

*Eucher.* But do you not consider, that in Law and Reason, whoever accuses any man before a Judge, ought to prove his Bill, if the Accused plead, Not Guilty? And you by complaining to the World of the wrong done to K. James, and the Deprived; Appeal not to them, whom you account Thieves, but to all others, to avoid their Communion: Now to draw off all People from their Communion, it is necessary to prove their actions Illegal according to the Laws of Tenure in the Crown, and the Ecclesiastical Promotions; since they whom you implead, challenge those Laws for their Justification. And further, by  
your

your leave, he that is out of Possession; But lays a claim of Right, and expects the benefit of it, ought to prove his Claim, and the Possession of the Adversary injurious. For they that are in peaceable, or legal form of Possession, have no need to make, nor consequently to prove a Claim, if not disproved. Beside, your Case is not concerned merely in your own personal Right, but in the Consciences and Salvation of other mens Souls, even of those whom you call Thieves; and therefore you are obliged to convince them of the unlawfulness of such Changes, which they think lawful, and not only so, but in the present circumstances necessary.

*Dyscher.* But I will further examin your own Proposals and Concessions

herein: \* *An untainted Loy-*

\* *Sol. & Ab. p. 4.*

*alty* you approve, while the *Obligation* lasts, and we desire no more. But then you think the *Obligation* may cease, not only by *Death*, or *Resignation*, but also by *Cession*: Nor do I think it worth while to dispute this with you, provided it be real, not forced, not falsely imputed. For so any man that is driven out of his House, or takes a Journey from Home, may be interpreted to have quitted his Estate by *Cession*. But when *Cession* is real, it can only affect the Party who makes it, and ought to be no injury to the next Heir. — But has that person made a *Cession*, who, tho' to preserve his Life, be fly from fraud and irresistible force, yet all the while claims his right, calls on all persons to do him justice, and useth all honest means that may be to recover his Right. T. B. 2d. Lett. p. 15.

*Eucher.* I will freely allow you, that to a legal and effectual *Cession*, there must be some voluntary Act of the Cedent, on which a Title in any Estate, Office or Authority is vacated. But then such Act shall have effect against the desires of retention in the Agent; as in two Benefices taken

to be illegally held without a Dispensation. Nor is it a pure unmixed Act of Will, free and discharged from fear and terror, or trouble, that alone can make a Cession; but receding from necessary Government for fear of Life, makes a real Cession; as appears in mens quitting of Garrisons to an Enemy, (for fear of storm) either before or after he sits down before them. Upon which Cession, and the Entry of the Enemy, the Dependents on that Fortrefs are discharged from the actual Bond of their old, upon the Enemies demand of a New Allegiance, to which they may lawfully and honestly submit for the time being. And this holds true on the present Title of the new Possessor in the Dominion of such Place, tho' the Cedent still has a claim of Right to it, and endeavours to recover it, which tho' he has Right to recover, yet he has no present Right in the actual Allegiance of the Dependents so legally transferred, till he does again recover the place. Else, if you will not allow this Doctrine, you will be but mean Parasites in the French Court, whose new Conquests have all this form of Establishment. And I must remark to you, that a mans leaving his Estate upon going a Journey is not a matter parallel to leaving of Kingdoms dissolved thereby into Anarchy and Confusion. For an Estate may lie still, and unoccupied, without harm, or danger, and so a Rectoral Presence, or Actual Administration not be necessary to the Tenure; but the Civil State of Nations requires a continual Course of Government, and he that leaves it dissolved, permits it to another by a proper Cession. And whereas you say, that such Cession, if it be real, shall not prejudice the next Heir, this does not allways, and universally hold true, as in the instance of deserted Garrisons, and the dependent Territories. But in other cases, if they, that have a plenipotentiary Right of acting,  
for

for an Heir in Minority, make a Cession for him, or bring him also thereinto, then the Subject people are discharged from adhering to such Heir also, were his Title to the Inheritance otherwise indubitate beyond all suspicion of imposture.

*Dyscher.* But let us see what a kind of Cession you fix upon your King.

\* *This was, say you, such a Cession, that the Estates in Convention judged it a virtual Abdication of the Sovereignty; and of † this, you add, they were the most Competent, Authentick, and Final Judges. And this, you tell us, \* we*

*\* Sol. & Ab. p. 3.*

† *My words are, —of this (being a point of Law) they were to us, at that time, and in that juncture, the most competent, &c.*

\* *ibid. My words are, We are the more to submit to, &c.*

*are to submit to, because the Kingdom hath ratified those proceedings in a second Parliament. — But Competent they could not be, who, for the prevailing part of them, were, either actually in the Conspiracy against him, or joyned with the Conspirators, and refused so much as to read his Letters, or bear any Message from him. Nor could they be Authentick Judges, who had no Law to authorize them, or their proceedings. Nor did I ever hear, that the natural Subjects of a Sovereign Monarch could be his Authentick Judges, unless from President Bradshaw, the Regicides, and their Adherents. And if upon this score you will have the Proceedings valid against the Son, you must also justify the Barbarous Murder of the Father. And then they could not be final Judges, because being neither Competent nor Authentick, they were no proper Judges at all. Nor doth it at all help the matter, that you call these your Judges the Estates; and further, to countenance the matter, place them in Convention. For how are they Estates, but with respect to the King, and Constitution? Which if they overthrow, what becomes of their Estateships? It is the King made them such, and they*

are so in subordination to him. Nor is their Convention any thing without him; they cannot convene without his Writ. You may remember, that your Oracle Dr. B — tells you, that a single Defect makes an essential nullity. So they must act under him; and all they resolve is nothing without his assent: And by our Law, if they act against him, they are Rebels, and so unfit for Competent, Authentick and Final Judges. T. B's. 2d. Lett. p. 15, 16.

*Eucher.* Here is an hideous Out-cry, as if the whole Machine of the World were breaking into ruines. But yet methinks it should be no hard task to stay the Convulsion. First then, The Objection against the Competency is never to be proved, and 'tis almost, if not altogether manifestly false. For the prevailing part must be the major number in both Houses, all which I suppose cannot be charged as parties to the Conspiracy, or the Conspirers. The Prince in his march did not pass thro' above ten Counties, and touched but little of several of them, he saw not twenty Parliamentary Burroughs, nor sent any Agents to concert with them; not many Peers joyned him till King *James* disbanded, and fled. The insurrections in the *North*, tho' unopposed, were far from general, and the far greater part of *England*, and all *Wales* saw nothing of it, and contributed nothing to that Commotion. How then can the Majority be all concluded into a Conspiracy against King *James* before their Convention, that thereby they should become incompetent? Besides, no man is to be taxed as a Criminal, in order to forfeiture, or punishment, till judicially convicted, or confessed. Otherwise, if he stands upon his innocency and Capacities, his Claim is to be admitted, and his Civil Privileges secured, against which in our Convention no man found Objection upon such surmise, or imputation; which yet ought to have been made

by the Innocent against the Guilty to the evi-  
dence of their incompetency. Let us see then, whether  
the refusal of his Letters, or Message renders  
them Judges incompetent. Now this I think ra-  
ther appertains to the Question of actual Justice  
in their Proceedings than to their Competency,  
or Qualification for sitting in Judgment. For a  
Judge duly authorised may act unjustly, and yet  
his judgment (till reversed) shall be authorita-  
tive and effectual, which it could not have been,  
if the Judge had thereby become incompetent.  
But even in this, which, till well considered,  
seems the hardest case, it was necessary first to  
resolve the Question of Abdication before all  
others; which if carried in the Negative, then  
his Letters must in Law and Duty have been re-  
ceived as from their present King; but till that  
point were determined, 'twas necessary to deny  
the Letters; for the Reception of them as from  
their then actual King had prejudged against all  
the Argument for Abdication, and had been a  
virtual Sentence, that he had not abdicated. And  
they could not well have resumed that debate,  
without rejecting his Letters after reading, and  
censuring their own admission of them, which  
would more justly have exposed their Wisdom,  
and offended you, than the measures which they  
observed. But after judgment past for the Ab-  
dication they could not admit his Letters under  
the Royal Style, because they had judged, that he  
was not our then King; and so the Admission of  
his Letters, as their Kings, had been a virtual  
Reverse of that their Judgment in the same Sess-  
ion, and Breath; by which they had rendred  
themselves, if not altogether incompetent, yet  
very injudicious Judges. And if after Judgment  
against his then Sovereignty they had sent to him  
under the style and salutation of late King, and  
have made him King a-new, had it not been a

wise Transaction, much to their Credit, Thanks, and the Nations Interest? So much then for the Conspiracy. Next for the Authority, which you say was none, since no National Subjects of a Sovereign Monarch can be his Judges. And by Mr. Johnson's leave, I will say so too, and did say so \* most exprelly, tho'

\* *Sol. & Ab. p. 4.* you in great sincerity take no notice of it, because it seems it was not considerable enough. But is it not a very considerable Assertion, *That when a King is fled from his Throne into foreign Dominions, and doth not exert any Royal Power, or presence to his People, the Estates of this Land are the Supreme Domestick Judges upon the Tenure of the Sovereignty, which is not to make them Judges of the Kings Person, but in the want of his Person, of the State of the Kingdom, and the Rights of the Nation in Order to Settlement?* And can you either disprove this saying, or charge it, or me with Regicide Principles? *Clamat Melicerta periisse frontem de rebus* — may well deserve your remembrance here; especially since I told you, \* that

\* *Ibid. p. 9.* King James was never in Law subject to them, or under their Power. But as to the Authority of the Estates to convene, when there is no King actually regnant, you may learn, if you please, that, tho' the Estates were created by Kings, yet their Rights and Charters are perpetual, and constituted for a fundamental Council to the Land, under the King, while we have one governing, But when we have none, authoritative of themselves to resettle the Nation the best manner they in their judgment may, or can: And this right they have in common with all the like Orders of Estates in all other Kingdoms; otherwise the Nation would not have been so earnest for a Free Parliament, when that liberty



erty was opened to them by General Monck's Conduct.

*Dyscher.* I shall talk with you about that Parliament by and by. And when I have told you, *That your second Parliament hath no more Authority than your Hocus Pocus transubstantiating Convention, that riotous Assembly, (all whose Acts were contrary to Law, and censurable by Law) and so cannot confirm them: I will examin your grave Position, That when a King is fled from his Throne into foreign Dominions, or doth not exert any Royal Power, or Presence to his People, the Estates of this Land are the Supreme Domestick Judges upon the Tenure of the Sovereignty. — But am I bound to follow their Judgment against manifest Right, and my known Duty?* T. B's 2d. Lett.

*Eucher.* No, no, by no means; but in such a *Crisis* you have no other known Duty toward any Settlement, but to abide by that which they establish in the Land for the time being; for that all Rights and Duties then debatable are in such junctures determinable by them to all Civil Effects and Obligations; and therefore their Judgments ought not to be opposed by any slanders or factions whatsoever, even tho' King James from abroad condemns them. For a Foreign Censure is no Civil Judgement, and by consequence of no legal validity, or virtue. Kings sometimes suffer wrong; but whensoever by these sufferings they are removed from their People, the Estates must provide for the Nation as they can, and as they do, we must be content; nor has the suffering King any Right to engage us from abroad to the contrary. And this Authority even without a King is so full in it self, that it needs no Ratification on the *post-fact* to make its Acts obliging or effectual; tho' such a declarative sort of Ratification, as our second Parliament made, be of use to satisfy unsettled minds, and second a former Obliga-

which was what I had respect to, when I said, *We are the more to submit to the proceedings of the Convention and first Parliament, since the Kingdom hath ratified their proceedings in a second, viz. by a Declarative Recognition, and reinforcement of their legality and virtue.*

*Dyscher.* After all, your considerable Assertions are but a malicious insinuation against your suffering King, as if he ran away thro' wantonness, and would have nothing to do with us. T. B's 2d. Lett. p. 17.

And herein Mr. Johnson seems more sincere in his wickedness than your Dawbers. For he tells

\* Pref. to the Commons before his Argument. p. 16.

your Parliament, that there was no Desertion; \* *For King James must needs go, and leaves us to understand the*

rest of the Proverb by an Apostrophe; that he was Devil driven. And so far speaks plain as to say, *That he was as much driven from England, as Nebuchadnezzar was driven to Grass, and he claimed as he fled by the Rochester Letter.* And he fur-

ther shews, \* *That no advantage could be taken of a Kings withdrawing himself from the*

\* *Ibid.* p. 19.

*Government, (if it had been voluntary, as all the World knows it was not) without a Summons sent after him to return again in forty days.* And therefore he roundly professes that the people abrogated their King after his Expulsion. And whence is it then that he exerts not his power? *You know he exerts all the power he can, that he doth not more is not his fault, but yours; you may have both his Power and Presence among you too, if you please. But will you contrary to your Duty and Oaths keep him out by force of Arms, and then plead your own wickedness in your Defence?* T. B's 2d. Lett. p. 17.

*Eucher.* Mr. *Johnson* falsely owns the fact you charge upon the Nation for the sake of his Principle which his spite to all Kings and Kingly Power, has cast him into, viz. That the People may Depose their Kings as often as they judge them Pccant, which is almost as often as they please. But 'tis notorious, that the Estates judged the Throne made Vacant not by their Act of Abrogation, but the Kings own Abdication; which if so, all the world knows it must be in some degree Voluntary. Now here will I challenge Mr. *Johnson* to say out; Does that claim of the then uncertain *Rochester* Letter, make the Abdication manifestly false, since he says it makes the Desertion so? Here I doubt his Courage will fail him, lest his Argument, and his Dedication follow the fate of the Pastoral Letter. And yet it is manifest, that though K. *James* made many large and previous steps to the Subverting our Constitution, yet the Final Abdication of the whole Government, consisted in his Desertion, from whence the Vacancy Commenced. and if this were no otherwise manifest, we have Mr. *Johnson's* own Averment, who tells us, \* *That we have an Act* ibid page 29. *of Parliament, which declares the Realm of England to have been Sovereign during that time, (of Vacancy between K. James's second flight, and K. William's Admission) by ordering all Indictments, from the time of K. James's withdrawing, till the 13th of February, to run in their Name.* 'Tis true indeed, that meer Local Desertion of the Land, of which there may be many Causes, does not *ipso facto* extinguish the Sovereignty, except it be judicially interpretable to an Abdication from other concurrent Circumstances and Indications, on want of which a demand of Return becomes reasonable, and the neglect thereof, interprets the Recession to an Abdication; but when there are evident tokens of yielding up a Government in the

form, manner, causes, and circumstances of such Local Desertion, then a summons of Return is not necessary in point of Law, or National Duty, upon the antecedent forms of Virtual Abdication, apparent in such Departure: If therefore his Act of Desertion in its own form, made a Legal and Effectual Abdication; his *Rocheſter* Letter imports no more, than that his words and actions are contradictory, in quitting by deed, and claiming by word, the same Right at the same time. Upon this Abdication therefore the Throne becoming actually Vacant, was by the Act of the Nation, filled up with their Majesties: And here upon whatsoever powers K. *James* endeavours to Exert, as they do not reach us, nor send out their vertue by legal ways of course, so are they too late and out of season; not to mention, that his late ways of Exertion under French Conduct, how honest soever you may call them, look not very natural or smiling upon English Men: If we sum up the matter, he was ruining all the Laws and Liberties, with the Religion of the Lands he Ruled, and they were just on the Precipice under his Exertions; so that the Nation needed and gasped for relief under them: Upon this the Prince of *Orange* having Great Interests and Legal Expectations here, comes over with a declared Intention to set all things at Right, in such order as the English Parliament should adjust, which was a fair and most equal design; this then was the time for K. *James* to have Exerted his Royal Power, & Justice too, in calling a Parliament for such purposes, according to the sense of the whole Nation, earnestly recommended to him by his Prelates, Nobles and Counsellors, for a long time, by sundry Addresses, even to the last: and he having sent out some writs thereunto, seemed a while enclined, but upon Romish Advice recalls that purpose, and instead of doing us that Justice, was resolved to contest it with the Sword: Here-  
upon

upon his Army, which, had he called a Parliament to have healed the Nation, would have secured him against all Forreign and Domestick Violence, sunk their Affections, as having no man to Fight for him against their Native Country, Liberties and Religion, disperse by degrees, and great part go over to that which they knew to be the Juster Cause; and he, being thus daily weakened, retires & disbands the rest; and even not then calling a Parliament to help himself and us out of the Confusion, he flies away to the Grand Enemy and Terrour of this Nation, and leaves us to shift for our selves under those Aspects and apprehensions of dangers that lay before us: If then, he would not exert a Legal Power when he might, 'tis too late to offer at any Forreign ways of Exertion after a New Settlement; or 'tis at least unreasonable, to demand our Reception of them to the destroying of our Redeemer after a National Allegiance given him, for his sake, who ever pursued our general Ruine against the Laws; his Oath, the ties of Natural Affection, and the Sighs, Groans and Requests of his Loyal People. And whereas you say, we may have his Power and Presence too, if we will, as lovely as that may be fancied, 'tis more than you can warrant. For, if we were disposed to accept your offers, if he should come with a *French* force, are you secured, that the *French* would permit him to be as free and independent a Monarch as before? 'Tis possible they might erect him for a Vassal titularly Royal, till their strength were fixed, and then upon demand of Expences, or other pretexts, pick a quarrel with him to annihilate him for their Masters Glory. Or supposing the *French King*, for once a true Friend to King *James*, would not his Forces make King *James* an Arbitrary Monarch here, to exert more than a legal Power over all the Bodies, and Souls, Estates, Coffers, and Purses of the Nation? If we had had any

maw for such Power, we might easily have had it, while he was here, and not have been beholden to the *French* for the *Commodity*. But if King *James* should concert privately with us to return without any *French* measures, or services, can you assure us to keep this secret from the *French* King? Or if you fail in point of secrecy, are you sure he will let King *James* go, or treat with us in neglect of his Interests, and Pleasure? Or would he not rather *Bastile* him for Ingratitude, and treat him hereupon after his usual methods of humanity? Thus pretty are your Projects to expose the Fate and Fortunes of Nations upon, and discover such a distemper in the Brain, as requires the Law of *Bedlam* rather than any other consideration.

*Dyscher.* When we deny the Authority by which your Estates sat, you ask us by what Authority was that *Free Parliament* called, or sat, that voted in King *Charles the Second*? Sir, if you please, let another be called, and vote in King *James the Second*. When things are out of Order, and good men set them to Rights again, I do not think any man will oppose it upon the score of some small niceties; but when subjects rebel against their Prince, and drive him away, and make that the ground of their going on, and doing farther wickedness, I cannot understand the Authority of this. There is certainly in every man an innate natural Power and Authority to wish well to, and vote for Right. By virtue of this, when things were in confusion, the Subjects of King *Charles the Second*, returning to their Wits and Allegiance, send a convenient number to act for the whole, who recall their rightful King, and if you should do so likewise, I should not be very quarrelsome with you. But whatever name they might give it, to put a better gloss upon the thing, they were no Parliament, till King *Charles* made them so; for he, their lawful King, by an Act in Legal Parliament, might stamp

on them that Character and give them that Authority, and Force, which they had not before; and thus several of their Acts might become Laws by virtue of that after Ratification, not by any force of their own. But as for calling back the King, that was not making any new Law, but enforcing the old, and was not so much an Act of Authority, as Obedience and Duty. And if you could find out the same way, you would be the best Friends to your Country, and your selves. T. B's 2d. Lett. p. 17; 18.

*Rucker.* To answer according to the way and order you lead me, as I have before told you, we are now under no obligation to call in King James, so being under another settlement, things are not out of Order, and Unsettled, as they were upon the convening of that Free Parliament; and as there is no occasion, so there is no opportunity to attempt it. But whereas you charge the Subjects in general with Rebellion, and Expulsion of their King, 'tis a broad slander and falshood; for beside the far greater numbers of the people that never moved, it seems that very few, that actually went over to the Prince, ever designed the expulsion of King James, but only the secure reduction of him and his exorbitant claims of omnipotent Prerogative to the just limits of Law and Reason by Parliamentary ways of Composition. Which, tho' they could not procure, yet did they not expel him, but he went off himself, either for fear of Life, or obstinacy against a Parliamentary Discussion, or because of the fatigues of an unsuitable Government. But as to the Convention it self, it rebelled not against him; for had he continued his Presence, they would have desired to meet by his Call, and then I believe not an Hair of his Head had fallen to the Ground, whatsoever his too conscious fears and apprehensions were, since the only Argument for the Vacancy of the Throne was founded in his Abdi-

Abdication, and that in his Departure from us, and leaving us in a state of Anarchy ; upon which it was not possible that they could rebel against him without his Presence. As for your innate Authority to wish and vote for Right, I allow your meaning, tho' not the impropriety of your words ; for an inward Right of wishing well is no proper Authority, which imports a Superiority over Inferiors, nor are private wishes formal votes in Civil Matters, in which an Authority to vote is not a natural Right of every man, but a positive Power of constituting Orders. And in Civil Negotiations all private wishes must concede to publick Suffrages, and Determinations, And the Land sent up that Free Parliament, not on their Natural Rights, but Civil Capacities of voting, and doing the best Right they could. And tho' they did well in bringing back the King *de jure*, having no other King *de facto* established, nor any impediment to the Reduction of the Heir Lineal, yet if there had appeared to them any such obstacle, as would have rendred his Reduction destructive to the Nation, and its Fundamental Liberties and Constitutions, according to the Aspects of our Case, they would have made some other provision for the time being, with which the Nation would then, and ought to have acquiesced, and so would a good Prince too ; but there being no difficulty in that Juncture, they did their Duty in restoring the King. And as for the Name and Character of Parliament, whensoever *de jure* enstamped on them, it matters not ; for they were in that Juncture, and those Circumstances a Legal and Authentick Council of the Land, tho' extraordinary ; and whatsoever Settlement they had made for the time being, had been valid from their Authority, as well as what they did had also authority both from their Duty, and the Kings consequent Ratifications ; for  
single



single Acts may have sometimes plural Authorities, and Confirmations. But to convince you, that Conventions of Estates in such Junctures and Confusions are by themselves authoritative to re-settle, I will discuss it with you, and I pray answer me fairly.

*Dyscher.* Pray try your skill.

*Eucher.* First then in such a State of Confusion, as that in which King *James* left us, has the Nation any Right or Reason to consult for some security, order and settlement?

*Dyscher.* It seems reasonable that this be allowed.

*Eucher.* By whom then should a National Consultation be transacted? Or who should, or can be so regularly and efficaciously entrusted, as the old standing Council of the Land?

*Dyscher.* I must confess I cannot assign any Council so proper as that, and none else, that can be pretended legal.

*Eucher.* Must the Determination of this Council be allowed any publick Efficacy, or Virtue to oblige?

*Dyscher.* Yes, if it pass according to Right.

*Eucher.* But if they judge their Determination to be right, must their Judgment take place to all Civil Effects, against all private and extrajudicial Objections, or no?

*Dyscher.* Yes, except the prevarication is notorious.

*Eucher.* Notorious! To whom notorious?

*Dyscher.* To all men, to the whole Nation, to their own Consciences, as the Exclusion of King *James* was.

*Eucher.* Then no Notoriety less than National shall justify a Recusancy to such publick Decision?

*Dyscher.* I were as good as allow it, for it seems so.

*Eucher.*

*Eucher.* But how shall we discern such a general Notoriety?

*Dyscher.* By the general and unanimous Censure of all Orders of Men, that adhere to the ancient Laws of the Government, and fundamental Principles of our Constitution.

*Eucher.* This will become such an intricate and endless debate, whose *are the Legal Principles* that it will create an intestine War in order to a Decision. You must therefore admit a notorious generality, or majority of the People, or all Orders in it comprehensively, or else we shall never get out of the brake, or be relieved by any National Consultation, if such indeterminate Surmises, or Pretensions shall interrupt its Obligation.

*Dyscher.* Be it so, what then?

*Eucher.* Then I think I have fairly gained my Points; for these Concessions admit, in a State of Anarchy, upon an Abdicant Desertion, a Convention of Estates to be Lawful and Authoritative without a Kings Commission, or Presence. Secondly, That the Acts of our Convention were, and are valid, as not being censured for other, but admitted as such by the generality, or notorious majority of the Nation, which is sensibly apparent by comparing the numbers conforming with the Recusant; Conformity and Recusancy being the only proper and legal Tests of Mens Senses hereupon: Tho' the Authority of our National Council is such, as needs no after Ratification from the dissolutive Multitude, or the original Freeholders, or Burgers of the Land; because, as the Lords are primitively Councillors for themselves, so the Trust signed to the Representative House is total and absolute, without need of any subsequent Ratification, or Power of Revocation by their Principals.

*Dyscher.* But notwithstanding all pretences; they ought to have recalled King James; and it being

being in their Power to do it, 'twas peculiar wickedness to omit it, and erect his Adversary ; this is obvious to common Sense, and the first simple Notions of Right and Wrong, against which no civil forms, or combinations can oblige.

*Eucher.* You are no competent Judge upon them or us, what Right required them to do in their then exigencies ; and if in truth they could not do what you would have had them, nor well and safely do otherwise than they did, then all this black Charge turns to a blank, and comes to nothing. Now 'tis true, the Prince had no settled, or proper Jurisdiction, or legal Authority (strictly taken) to enforce a Convention, or any thing upon it ; nay, they had liberty before the judgment of Abdication to have voted King *James's* Revocation. But if they had done so, and the Prince in bar thereto had pleaded the Desertion to have been an Abdication devolving the Title to his Princess according to the ordinary and legal course, and so had required them to dissolve ; if they had dissolved, what could such vote have effected ? If they had not dissolved, the refusal might have opened a Scene of War between the Prince and the two Houses. And considering how great the even minor number in the Houses, which might have sided with the Prince, would have been, and the vast and zealous Army which he had about him, with all the formed advantages and preparations of War, together with the hearts of at least the general multitude, are you sure that the naked Majority, of the Convention could have safely ventured the dispute with cold Iron ? Or if upon a casual adventure they had been conquered, how could they have evaded the Prince's Arbitrary Power ? Or if, during the War, King *James*, or the *French* had supervened, and carried it, had not all the Laws and Liberties of the Nation, dipt and sunk under

under Absolute and Popish Power, and that most probably *French*, or *a la mode de France*? All this is obvious to common Sense, and was undoubtedly much more so to that National Assembly, which otherwise wisely composed all Domestick Riots, as well as secured us from foreign Inrodes, and little deserve the reproach of Riotous, or Juglers; which manners to your own deprived Fathers, and other your Friends that sat there, should have taught you to forbear.

*Dyscher.* Whereas you tell us, 'tis a prodigious peevishness to require a Kings Presence, or Commission, when he is gone, and hath left all in *Anarchy*; I hope, Sir, you do not think I require a King to be present, when he is absent; and then, with your good leave, I think it no such peevishness to act by his Commission in his absence, but that it is a thing which (if it can be had) ought rather to be done. Rich-

\* This is false, for he was King before he went, and deputed the Bishop of Ely Chief Governor: It was Edward the First that was proclaimed King while in the Holy Land, but he was never Prisoner.

ard the First was engaged in the Holy War, when his Father died; \* so that he was far enough from his Throne, and unable to exert any Royal Power, or Presence to his People. And to make the matter worse, in his return he was taken Prisoner, and detained in Germany. In

this Case, had you been one of the Estates, you would have been for setting up another King, that would exert his Royal Power, and Presence to his People; but they had another sense of their Duty; they mourned under the common Calamity, caused all proceedings to pass under his Name, and stretched their Purse to redeem him, &c. T. B's 2d. Lett. p. 18.

*Eucher.* But here, *currente Rot.* you have omitted something considerable, and inconsiderately offered what is not so. For I only state the Case, when a King, that was actually in the Throne, goes off from it, and resigns all to *Anarchy*, which is justly

Justly interpretable to an Abdication of Government; which was not *Richard's* Case, which is therefore instanced altogether impertinently. Yet in that \* very Case, whatsoever had been the procedures of the then Estates for the time being, the subject people must have acquiesced in their judicial determinations, and presumed them Legal till reversed in as Legal and Authentick Forms of Judgment, tho' *Richard* had lain for ever unredeemed; because the multitude are incapable of judging our National Laws, Rights and Capacities, and cannot act regularly to the recovery of Right, or performance of a National Duty: Yet it is bold in you to say, that my Vote would have passed against *Richard's* restitution, since I, that have well known the motions and sympathies of my own Soul thro' all this Revolution, should certainly have been carried by my Bowels for that unfortunate King *James* against the wiser and major part of that Assembly you traduce. But besides your insincerity in this parallel, and your Censoriousness on me, you seem to pervert, or misunderstand my meaning, when I said, it is prodigious peevishness to require a Kings Presence, or Commission, when he is gone, and hath left all in Anarchy. For tho' it is then only proper to require a King, or any person, to restore his Presence, when he is absent, when during his Absence his presence is needed; yet I never was so silly as to think Presence, and Absence compatible, and conneccessary at once, or that a Commission in time of Absence was improper to supply the defect of personal Presence, according to that ridiculous guise you clap upon my words; but my apparent palpable intention was, that it is prodigious peevishness to require a Kings Presence or Commission, as necessary to make the Session of Estates Authentick, when

\* See Sir *Richard Baker's* Reign of *Richard the First.*

when he affords neither Presence, nor Commission; for want of which all is left in supine and gasping Anarchy, which were my express words, on purpose set to obviate this, and other like Cavils, tho' honestly omitted by you for inconsiderable, tho' therein lies the main force and form of my Argument, which is like to stand unmoved, notwithstanding all the impotent flurts of unmanly peevishness.

Dyscher. *At last you say, the Estates of any Nation being \*invited by a victorious and unresisted Power, may*

*\*Sol. & Ab. p. 4. come together, and treat with him that thus calls them, tho' he hath no antecedent Authority (strictly taken) to call them. Here is a pretty fetch in the word [unresisted Power;] for irresistible you knew it was not; and if it was unresisted, whose fault was that? May they refuse to resist an invading Power, when they are able? And may they make that disobedience the reason of their Compliance with him, and casting off their own Sovereign? But if, without dawdling, you had put the Case as it was, it ought to run thus; The Estates of any Nation, or the natural Subjects of any Sovereign Prince may combine with, and invite in a foreign Prince, and when he comes, tho' with a contemptible force, they may forsake their lawful Prince; and then by their Treachery having left him helpless, and hopeless, may treat with a Foreigner, drive away their own King, give his Crown to the Foreigner, and maintain it with their Swords and Purses, without which he could not keep his illgotten Goods. T.B's 2d. Lett. p. 18.*

Eucher. It confessedly seems, as I stated the Proposition, you cannot deny the perspicuity of its Truth, and therefore you invert it to an invidious Paraphrase, which in many parts of it is not truly applicable to that which was the Subject of my Apology, viz. the Authority of the Convention. For all your aggravated Invitations,

Com.

Combinations, Revolts, Treacheries, and Derelictions, allowing, or supposing them to be no other than you describethem, are not chargeable on the whole Estates of the Land, especially when in Convention. And even thus I will renew my Position, That by the Laws of Nations, if a foreign Prince procure the Revolt of a vast part of another Princes Subjects, thro' the terror of which the helpless Prince leaves his Kingdoms in Anarchy under the Army of the foreign Potentate, who thereupon calls the Estates of such deserted Nation to treat for a Settlement, they may convene, and treat with him upon such invitation. For it is the necessity, the subject Nation stands in for a Settlement, that warrants and legitimates such Treaties, by what means soever those exigencies are introduced, whether by foreign Force, or intestine Commotions, jointly, or severally, throwing all into Anarchy, and Disorder. But if the charge of the Revolt preclude the legality of any more Session, that incapacity ought to have been objected, and if overruled, protested against in Convention, as I have already told you; which not being done, they were all in Law, Reason, and Civil Construction, lawful Agents, and Councillors. As to the word [Unresisted Power] I confess I used care indeed, but no trick; for it was too hard for me to judge whether the Prince's Power were irresistible or no; and so it is in many cases, in which Parties yield rather than run the hazard of a Battle. But every one can tell when it is, or is not actually resisted; and the Proposition is as true of an unresisted, as well as irresistible Power. Tho' take you all the Forces foreign and domestick, joyned to the Prince when the Convention was called, you will think it hard for any Subjects to have resisted them, when the King himself long before durst not, but disbanded, and quitted thereby all pretensible Duties in the Subjects to take Arms.

And the Conventioners deserve to be your humble Servants, for putting them upon such an Essay. But if you will require, where the fault of this non-resistance really lies, I think you may find it in him, that neither could be induced to call a Parliament, nor to fight it out. After which double miscarriage, and flight out of the Kingdom, I think no man was obliged to resist, or take up Arms, but to desire such a Settlement as the State of Affairs would admit. As for the Wars we maintain with our Purfes against all the Enemies of our present Settlement, they are just according to all the Rules and Forms of Civil Laws, to which you your selves contribute as well as we, only with more Crime, as doing that against your Consciences, which we admit upon Principles to us appearing good. But if you think your Exigencies legitimate, your payment of Taxes to prevent new danger, so we think the general Exigencies of the Nation did legitimate this Settlement, and do still justify our plenary Submission thereunto, according to the Sense, Laws, and Usages of all Nations. As for those you call Revolters, they were not the Subject of my Discourse, whom I therefore leave to God, who, as he saw the provocations, so did he also every mans purposes, and trains of thought in that Insurrection, according to which at the last day they shall each man be judged. But for those that lay still, I know no legal summons they had from King *James* to rise in Arms, to make that quietness a breach of Allegiance, in which certainly you *Jacobites* are as culpable as the others, and in one degree more, in that when you might, and upon your Principles ought to have taken Arms for him, you would not, and now when you neither can, nor ought, clamour for new Seditions and Commotions, by which we must inevitably fall a prey to *France*, and a Burnt-Sacrifice to *Rome*.

Dyscher.



*Dyscher.* I will now for the present intermit the Remarks I collected at *Gilman's Coffee-House*, and bestow some other impartial Reflexions on your Grand State-Principle, on which you raise your other Arguments. Here then I must tell you, *That you set up new Principles, which the Church of England hath always declared to be erroneous, and grounds of Rebellion; viz. you set up the Parliament above the King, and that we must take our measures of obedience only from the Parliament, \* to whose Judgment,* \* Sol. & Ab. p. 31. say you, in all Civils, all Subjects must submit. And upon this you Ground all your Superstructure, as that King James's \* Tenure has been \* Ibid. p. 8. publicly judged by this Nation to be extinct; \* and that \* p. 9. this Nation hath justified King William's Cause, which is to conclude upon us. Beyond this you allow no man to look, or enquire; The whole Body of the Church are to be taught by the Parliament, and to have an implicit faith in them against the King in all Cases whatsoever, so that \* the \* Ibid. p. 4. Churches Loyalty is to follow the Civil Judgment concerning the Object of our Allegiance, and the Tenure of Sovereignty. And by this Rule, if a Parliament change a King every day, the Church is bound to swear to every one; the Parliament can solve their Oaths. But there was a time, when the Church thought it their Duty to be Teachers, and particularly as to Loyalty, as being a principal part of Religion, and even [against a Parliament; and their Doctrine was owned by all true Sons] of the Church of England, I mean the Old Church of England in the Reign of King Charles II. This was their Doctrine and Practice, and generally

Here unfortunately four or five lines were broken off the MS. Reflexions, but, as I well remember, the sense was such as is included within these brackets [ ].

of the whole Church of England ever since the Reformation, as is plain in her Homilies, Articles and Canons, &c. And you do not attempt to disprove these, but only assert the contrary, and so leave it as a thing settled, and sure. MS. Reflections. That the Churches Loyalty, as to the Object, is to be guided by the true Constitution of the State, I deny not; but I shall never yield, what you would thence slur upon us, that it is to follow every Civil Judgment, much less the Uncivil Judgment of any Set of Conspirators, and Traitors, into whose hand you so liberally and piously dispose it. T. B's 2d. Lett. p. 19.

*Eucher.* I am resolved, that no calumnious usage shall storm or transport me into any indecent, or uncharitable passion. But tho', for my own part, I might reject your imputations of disloyalty with scorn and silence; yet for your conviction I will calmly remind you that I ever told you, that the Estates of this Land are not Judges of the Kings Person, who is not under their Power; nor in Law subject to them. And all that I any where said of their Judgment about the Throne, amounts to no more than this, that in a state of Anarchy on a King's Desertion, or in Arbitration between two, or more Competitors, the Estates of this Land are the Supream Domestick Judges, and Arbiters upon the Tenure of the Sovereignty, and the Rights of the Nation in order to Settlement. And that in case an irresistible, or unresisted Potentate

\* *Sol. & Ab. p. 5.* enforce himself upon the Nation for a new King, and the Subject people cannot help it, our Laws in this concur with the Laws and Practice of all Nations, in allowing (our Estates to determine for us in such Exigencies;

\* *Ibid. p. 4.* \* that in extra-ordinary interruptions, and convulsions of State, our Laws, and Constitutions allow the Estates) such a King, as can actually be had for the time being, for which \* I refer to

\* *Ibid. p. 5.*

our Histories, Acts of Parliament, and Judgments of Law, under hereditary Kings, since the Reformation, without any Remonstrance of King, Church or State to the contrary, and at last to Bishop *Overals* Convocation Book. So that if a Question arise in the disordered Kingdom, who is my King, to whom my Allegiance is legally payable, I refer to their Judgment as the then Supreme in all our Civils; and if you can assign any Superior, or more Legal Judgment, to decide, and determine such national Questions, and Controversies, I am content to give up fairly to you. And if you can produce any Homilies, Articles, Canons or Monuments of this Church contrary to these my Positions, then I will yield, that the Churches Authority, as far as that can go upon Civil Questions, will lie against me. But a mans Eyes shall sooner drop out of his Head, than discover any such counter-principles in the publick constitutions of our Church, which you would have quoted, if you could, particularly, but since that could not be done, 'twas very feeble to make such an hollow and causeless noise about it. And yet, if the Church in Civils had interpreted the Laws contrary to the Judgments of the State, she had given a null and incompetent Judgment, since we are no Authentick Doctors in these matters, nor the Church a Court of Civil Judicature, prohibitions always justly lying on her, whensoever she admits the Pleas, and assumes the Judgment of Civil Causes. As to the Rebellion against King *Charles* the First, it comes not near our Case, for there was a King actually Regnant, who in Parliament had redressed all their Grievances, and whose Tenure was indisputable, and undisputed, the very Rebels owning their Arms to be for King and Parliament. But neither was that Rebellion a judicial form of proceeding of both Houses, (of which only I spake as Authentick in the Actual

Vacancy of the Throne, and a state of Anarchy) but a military one, by a divided part of the Houses, assuming the Style and Title of the whole Parliament, against a King actually Regnant, which I had no occasion to mention, much less to justify, the Nation having since condemned it by Act of Parliament. Nor had it been entred into by the unanimous Vote of both Houses, had it obliged as a Law, as wanting the Royal Assent of the King then Regnant. And the Rights of the Crown, and Duties of our Allegiance are still the same, tho' *Milton* will still have Successors to his Villanies arise, when their Sovereigns are involved, to tamper with popular and seditious humours and ambitions, in order to new projected commotions. But they who make the Convention to have proceeded on principles of Rebellion contrary to their enacted Judgments, that hence they may draw Arguments to whiten the Old, and to enflame New Rebellions, deserve they, and their incendiary Pamphlets to be burnt together. Nor need you fear any such consequence from any my Positions, as if upon these the Parliaments may change their Kings every Day, and thereupon our Oaths; For I have asserted no Convention of Estates to be in Name, or Thing a Parliament, if they meet contrary to the Fundamental Laws of their Constitution. And while a King is actually Regnant, they

\* The Triennial Act was not passed when this was written.

\* yet meet, sit, are prorogued, and dissolved at the Kings Order only. And this

being yet the form of our State, no Votes, or Bills of the Houses can pass into an Act, or Law without the Assent of the King Regnant, at whose pleasure they immediately are, and are not, and so can make no Legal Assembly, or publick Change, without, or against him, over whose Person they are neither Lords, nor Judges. For

tho'

tho' Causes of the King may come before the Lords, and be overruled in Justice to the Subjects Right, against which they are brought thither, yet this is no more than what we see in other Courts, which yet pretend no Sovereignty over the Kings Person, by whose Commission they sit in Judgment. So far am I from such wicked Principles, as Plat-thorns in the Crowns of Kings, and set them in the most unsupportable Bondage, that Art, or Ill-nature can contrive, but withal provoke great spirited and designing Princes to seek avenues to an Arbitrary Power, who would have gladly been contented with a regular and equal Sovereignty, if they could have been secured in it from the fears, and incentives of popular insolence. But to return from this Digression, if a King thro' any fear, or cause whatsoever, utterly deserts his Kingdoms, and leaves all in Anarchy, and Confusion, that the Estates of the Land, if they can, should then Convene, and settle the Nation the best way they can, is so far from Rebellion, that it is most certainly both their Priviledge, and their Duty. And if they are first to determine our Settlement, I am sure the Churches Loyalty is to follow their Judgment, except we challenge an Appeal from them to the Church, to ratifie, or vacate our Civil Constitutions. And if you call this Duty of Submission to their Civil Settlements implicit Faith in the Parliament, it will be prone to retort, that you challenge an implicit Faith in the Church, and that in matters not Ecclesiastical, in a latitude more Exorbitant than any Pretensions of the Church of *Rome*. But the Truth is, our Duty to any such established Settlements is not founded in an implicit Faith, whose proper Objects are *things not seen*, Heb. 11. 1. but in an apparent, explicit, and authentick Determination, as all other Duties pursuant to Laws and Publick Judgments are, and no otherwise. And you,

you that will allow the Churches Loyalty, as to the Object, to be guided by the true Constitution of the State, but not by every Civil Judgment, have need to explain your self, what shall be the Supream Civil Judgment for you concerning the Laws and Constitutions of our State in rare, unusual and dangerous Cases of Desertion, and Anarchy. For if you assert to every man a practical Judgment upon our Laws and Rights in such Cases, and that even against a National Judgment, the Confusions must be eternal; If there must be a Civil Council, I pray assign me any other like that of the Estates in Convention, who indeed, as often as such Cases call upon them, are the Supream Judges of the Constitutions and Rights of the Nation, and Arbiters of our Settlement concluded thereupon. And if you will not yield to every such Civil Judgment, you may as well say, you will yield to none, except it comports with your private Humours, or Persuasions, which is the true and plain English of your Answer herein, if I may use the freedom you take with me, of being your Paraphrast, or Interpreter, and is a wonderful Expedient to settle us by eternal and unreconcilable discords in Opinion and Practice.

*Dysfeler.* Let us now see, what a fine account you give us of the Laws and Rules of our Succession;

and hereon you tell us,\* *That*

\* *Sol. & Ab. p. 4.*

*the general and ordinary Rule of Succession to this Crown is He-*

*reditary, but in extraordinary Interruptions and Convulsions of State against the ordinary Course, our Laws and Constitutions do allow the Estates such a King, as can be actually had for the time being, till the ordinary Rule can be fairly recovered. Now if a man were to speak this in plain English, it would be thus; By our Laws and Constitutions the Crown is Hereditary; but if any Usurper, or Traytor will not suffer it to be so, let pass by the Right Heir, and gets*

gets possession himself, the Laws and Constitutions allow him to be King; yes marry, and a Lawful King too; i. e. the Crown goes in a Lineal Succession, while people are peaceable and Obedient; but if they be troublesome and rebellious, it is catch as catch can, and he had Right and Law on his side, who gets Possession, and so will another, and another without end, who can successively wrest the Possession from those who had the Right whilst they could keep Possession. Did ever any Body hear of such a Constitution as this? Or was any thing better fitted to produce eternal Confusions? Certainly you have a mind to persuade us, that our Constitutions were made by the Wise Men of Goatham, or the Wiser Men of Bedlam. T. B's. 2d. Lett. p. 19.

*Eucher.* You frequently use a suspicious Artifice of travestieering, what cannot be plainly answered, into farce and mishapen figures, and then expose it in Ridicule. By which however you call upon you the Sentence of the Psalmist, *What shall be done unto thee thou false Tongue? Mighty and sharp Arrows, with hot burning Coals.* For if I may be my own Paraphrast, my Sense is, that all Estates and Subjects are to their utmost obliged to preserve together the Sovereign and the Sovereignty, and the established forms of Government, according to the precise constitution of the Laws; but if these be irresistibly overborn, or the Sovereign abdicates all to Anarchy, then it is Lawful for the Estates to settle under such Sovereigns, as can be actually had for the time being, till the old Rules can be fairly recovered; which being positive, must give place to a temporal necessity. But did I ever say that Tyrants or Traytors, getting into Possession by meer Force, had Right, and Law on their side? No sure; for they may break all Law, Right, and antecedent Rules of Obligation, and yet the oppressed Estates may lawfully admit the Oppressive Power, when it appears  
toq

too formidable under prospects of further inevitable Ruins. This I expressly and cautiously told you in these words ; \* And

\* *Sol. & Ab. p. 5.* even an unjust Potentate, tho' he cannot according to Legal Justice out a King, against whom he hath no Legal Cause, or right of War, yet if he doth do so, and the subject People cannot help it, and he enforce himself on the People for a new King, our Laws in this concur with the Laws and Practice of all Nations, in allowing our Estates to determine for us in such Exigencies, — and the sin shall lie only on the injurious, and not on them that submitted to an inevitable fate of things ; and again, \* Wars

\* *Ibid. p. 6.* and victories are many times unjust, yet they, that suffer the wrong, lawfully submit to the unlawful and injurious demand of Submission, as in Piracies, and other like Tyrannies. And could such a Confessor for Conscience, Truth and Piety put lying Senses on my words without any remorse or touches of Conscience? More integrity was due and becoming such starched or sacred pretensions. But I have well learned, that Faction leavens the Soul, not only with soweriness, but with insincerity also. But as I truly stated, and have now explained the Nature and Duties of our Constitution, I assert it a Fundamental Law to all Civil Societies, except perhaps that pair of dissyllable Seigniories, which you mention, where the Politicks, Logicks, and Ethicks suit with yours, and where, unless you'll to the *Antyceryæ*, I must leave you. And since all Kingdoms, and Empires are by the just and adorable Counsels of Gods Providence subject to such various Turns of Fate, all Princes, that take Crowns upon them, take them with the Laws of their fortune, and a concession to the regular consequences of such Change, under which they acquit the innocent Subjects under new submissions, tho'



inevi-  
ly told  
\* And  
e, tho'  
Legal  
Legal  
and the  
himself  
is con-  
in al-  
Exi-  
rious,  
e fate  
Wars  
times  
er the  
rious  
r like  
Con-  
a my  
nci-  
such  
well  
only  
ut as  
Na-  
it a  
cept  
nich  
and  
ou'll  
nce  
and  
to  
ake  
of  
on-  
ac-  
ns,  
no

tho' they condemn, and ( being reduced ) profe-  
cuted all those that enforced the Change. But as  
long as the Duties of Subjection are such as I have  
described, intestine changes and disorders cannot  
arise from them. And while Princes minister  
Justice and Judgment to their People, and make  
their Prosperity the Royal Care, they are seldom  
threatned with Commotions. But yet it some-  
times happens, that for unsearchable, tho' Just  
Reasons, the Judgment of God permits the most  
innocent Princes to intestine as well as foreign  
troubles, which yet however they that promote,  
shall not escape Divine Vengeance. And yet af-  
ter the determination of such Wars, it can be no  
sin to acquiesce under those forms of Settlement,  
which our Estates can procure for the time being,  
tho' different from the ordinary Course. And  
there is no other Rule to recover the Civil Felici-  
ty of Nations but by these Principles, which eve-  
ry Princely Spirit must be presumed to allow, in  
equity and compassion to all his good Subjects, to  
rescue them from utter extirpation, or perpetual  
misery.

Dyscher. *At last you are willing to qualifie the  
matter, and to suffer this only, till the ordinary Rule  
can be fairly recovered. If this be so, why is it not  
recovered? Sure you will not plead that in justifica-  
tion of a People, which is notoriously their Fault, and  
such a Fault, as is in their Power to mend, when they  
please. Let them unanimously, as they ought, return  
to their Duty and Loyalty, and the thing will do it  
self, and without any great pains, trouble or danger.*  
T. B's 2d. Lett. p. 19, 20.

Eucher. But I thought I had long before strangled  
the life and force of this Objection, having abun-  
dantly proved our Submission to this National Set-  
tlement faultless. And so a breach of National  
Contract is no fair way to a recovery; for an op-  
portunity only of doing a thing legally can put us  
into

into a fair capacity of recovering the ordinary Course, which is not, as you fancy, the business of a moment, but an expectation of years and proper Conjunctions at the hands of God, whose leisure we are to wait for without our own too violent anticipations. Thus the Nation behaved itself thro-out all the Reigns of *Henry IV, V. and VI.* whom you would have challenged for Rebels, in lingring too long in the restitution of the Right Line. But whereas you propose to us an universal unanimity in reversing this Constitution, I will dare undertake the Affair for you *sub poena Capitis*, when you can find me out an effectual Expedient of making us all unanimous. Otherwise what shall the unanimous do, that are the far less numbers, unarmed, and in no publick Capacity of acting for the Kingdom; against those settled and formed Powers, that can easily squeeze all our little unanimities to pieces? Shall there be no end of strife? No yielding to legal forms of Determination? And when there is but little hope of twisting the Sand-rope, can your thing do it tear, and that with little trouble, pains or danger? And yet if *King James* Abdicated by a real Cession, as the Nation judged, and I have proved, your project would violate, not only this extraordinary Settlement, but your ordinary Rule also, by which in the moment of Cession it devolves on the next Heir Lineal; and the Course cannot turn retrograde, without the Consent of all the Heirs in being, or their proper Curators for them.

Dyscher. *But I see you relapse again, and become a zealous Advocate for your extraordinary Kings, in whose behalf you plead Acts of Parliament made by Extra-lineal Kings, which were confirmed (submitted to, you subtilly phrase it) by the Lineal Heirs, and these were approved by Lawyers, nor did the Church ever re-nistrate against them. And what of all this? Let the Usurpations and Confusions be what they will;*  
*still*

still men will eat, and drink, buy and sell, and such like Acts. Nor do I think such a State doth acquit men from the Obligation to do (what in them lies) such things as seem absolutely necessary for the preservation of the Society, and there is good of Mankind. And if any such things, as are necessary for the maintenance of human Affairs, and which are accompanied with common Justice in themselves, should now be done, or enacted, and hereafter be confirmed by King James, I know no reason to remonstrate against this; but I think the need of such a confirmation is a demonstration where the Right and Authority lies. T. B's 2d. Lett. p. 20.

Eucher. Since I am bound to follow the way you lead me, the first thing I am to observe, is your mistake, or perdition of my words about the submission of Heirs Lineal, by which you say I subtilly mean their confirmation of the Statutes of Extra-lineal Kings, which is no part or glance of my meaning, and no man carefully heeding the Order of my words could think it to be so. For I mention their submission to somewhat mentioned before those Statutes. And I truly meant the long and frequent submissions of the Heirs Lineal as Subjects to Kings Extra-lineal actually Regnant, particularly under the Lancastrian Reigns. And even your Edward the IVth Father Duke of York swore Allegiance to King Henry the VIth, and kept it, till new wounds of Rupture arose between them. So that it is a very impertinent importunity to demand a new subsequent confirmations, which I never mentioned; And instead of subtil, it had been too silly in me, to have called a Confirmation of an invalid Act, a submission to that feeble thing, which is thereby enlivened. And yet, by your leave, all After-confirmations do not suppose always an antecedent Nullity in the Act confirmed, for they sometimes secure, sometimes continue, and sometimes double an an-

into a fair capacity of recovering the ordinary Course, which is not, as you fancy, the business of a moment, but an expectation of years and proper Conjunctions at the hands of God, whose leisure we are to wait for without our own too violent anticipations. Thus the Nation behaved itself thro-out all the Reigns of Henry IV, V. and VI. whom you would have challenged for Rebels, in lingering too long in the restitution of the Right Line. But whereas you propose to us an universal unanimity in reversing this Constitution, I will dare undertake the Affair for you *sub poena Capitis*, when you can find me out an effectual Expedient of making us all unanimous. Otherwise what shall the unanimous do, that are the far less numbers, unarmed, and in no publick Capacity of acting for the Kingdom, against those settled and formed Powers, that can easily squeeze all our little unanimities to pieces? Shall there be no end of strife? No yielding to legal forms of determination? And when there is but little hope of twisting the Sand-ropes, can your thing do it heir, and that with little trouble, pains or danger? And yet if King James Abdicated by a real Cession, as the Nation judged, and I have proved, your project would violate, not only this extraordinary Settlement, but your ordinary Rule also, by which in the moment of Cession it devolves on the next Heir Lineal; and the Course cannot turn retrograde, without the Consent of all the Heirs in being, or their proper Curators for them.

Dyscher. But I see you relapse again, and become a zealous Advocate for your extraordinary Kings, in whose behalf you plead Acts of Parliament made by Extra-lineal Kings, which were confirmed (submitted to, you subtly phrase it) by the Lineal Heirs, and these were approved by Lawyers, nor did the Church ever remonstrate against them. And what of all this? Let the Usurpations and Confusions be what they will;  
still

still men will eat, and drink, buy and sell, and such like Acts. Nor do I think such a State doth acquit men from the Obligation to do (what in them lies) such things as seem absolutely necessary for the preservation of the Society, and the good of Mankind. And if any such things, as are necessary for the maintenance of human Affairs, and which are accompanied with common Justice in themselves, should now be done, or enacted, and hereafter be confirmed by King James, I know no reason to remonstrate against this; but I think the need of such a confirmation is a demonstration of the Right and Authority h.s. T. B's 2d. Lett. p. 20.

Eucher. Since I am bound to follow the way you lead me, the first thing I am to observe, is your mistake, or perversion of my words about the submission of Heirs Lineal, by which you say I subtilly mean their confirmation of the Statutes of Extra-lineal Kings, which is no part or glance of my meaning, and no man carefully heeding the Order of my words could think it to be so. For I mention their submission to somewhat mentioned before those Statutes. And I truly meant the long and frequent submissions of the Heirs Lineal as Subjects to Kings Extra-lineal actually Regnant, particularly under the Lancastrian Reigns. And even your Edward the IVth Father Duke of York swore Allegiance to King Henry the VIth, and kept it, till new wounds of Rupture arose between them. So that it is a very impertinent importunity to clamour about the subsequent confirmations, which I never mentioned; And instead of subtil, it had been too silly in me, to have called a Confirmation of an invalid Act, a submission to that feeble thing, which is thereby enlivened. And yet, by your leave, all After-confirmations do not suppose always an antecedent Nullity in the Act confirmed, for they sometimes secure, sometimes continue, and sometimes double an antecedent

antecedent validity, which all the Statutes under  
 Extralineals had in themselves for the time be-  
 ing, before there could be room for those subse-  
 quent Ratifications, and the perpetuity of their  
 Virtue stands not in those Ratifications, but in  
 the Non-repeal of them. And yet however had  
 it been otherwise, by parity of Reason all our  
 Acts obliged the Subject now during this present  
 Reign, and we are thereby acquitted in our pre-  
 sent submission, whatsoever nullities it may fall  
 under in your next Revolution. But there is a  
 Famous Act, viz. the 11th of *Henry the VIIth*  
 Chap. 1. made in an Extra-lineal Reign, that de-  
 clares it for Law and Equity, that Subjects pay  
 their Allegiance to the King for the time being,  
 and indemnifies them herein against after punish-  
 ments. This Law was never since confirmed, cen-  
 sured or repealed by any succeeding Prince, or  
 Parliament, and yet stands firm in the Body of  
 our Statutes to all Civil Effects and Judgments,  
 which pass ever since according to the importance  
 and tenour thereof. And you your self grant me  
 enough for the time being, that the Estates may  
 sit in Parliament under Extra-lineal Kings, to do,  
 and enact things necessary for the preservation of  
 the Society, and the real good of Mankind, and  
 are not acquitted from an obligation to do so  
 thro' the disorder in the Succession, and such Acts  
 in this Reign, when hereafter confirmed by *King*  
*James*, you will not condemn. Sir, your hum-  
 ble Servant. But can you tell, how such Acts  
 could, or can pass in such Parliaments, without an  
 Oath of Allegiance taken to such Extra-lineal  
 Kings by all the Members? I doubt this will put  
 you out of your good humour again; and that is  
 a great pity, because you are so seldom in it. But  
 however these honest Acts must be valid, for the  
 time being, upon us, till *King James* returns, or  
 else the Obligation of the present State to preserve

the

the Society, or promote the real Good of Mankind by them, will be but of little Virtue, or Use.

Dyscher. But, pray Sir, upon such extraordinary interruptions, did all men ever think themselves bound to approve them? Did not they still, as opportunity served, assist Right? Did not such proceedings cost a world of Blood and Treasure, to none, or very ill purpose, while no Peace, or Ease could be had, till things were brought to rights again? When matters are in trouble, or confusion, wise and good Men think it the best way to put an end to them, as soon as can be; But you cast out that Right that only can restore our Peace; and when you have conjured up most horrid confusions, plead for their continuance. I know not what could be done more by an Advocate for the Prince of Darknes. As for what you say concerning Bishop Overals's Convocation Book, I am sorry, that a pretender to so much modesty should be guilty of such an impudent Assertion, when that matter hath been fully cleared by so many learned and judicious Pens. T. B. 2d. Lett. p. 20.

Eucher. This is a very paronymous Carefs indeed, but such as convinces me no more than your Arguments. But I know who has taught me to give place unto wrath, while I encounter your Reasons. First then, Is it not a Question profoundly wise, whether all Men did ever think themselves bound to approve Extra-lineal interruptions? For did you ever know all men in the same Opinion, that they ought to approve any one State of things? But this is not your only Lapse of Sense. It is not the Interruptions and Convulsions of State that I would have you approve, for no good man can approve Interruptions in settled Government, as such. But I require you only to submit to such National Settlements as close up our Confusions, and so far only to approve them, as they are Ends of Strife and War, if  
there

there appear no other Good in them. As wise also is your second Question, Did they not still, as opportunity served, assist Right? I pray, who are these They, but your All men just before mentioned as the Antecedent to this Relative? But did all men, as opportunity served, assist Right? How then came there any to be in the Wrong? Or how came all men together to want an opportunity to do Right? Or how came there in any Disorders, and such a general Expence of Blood and Treasure to very ill purposes? But what think you of those, that enforced these fatal Expences? Were they of the All men, or no? Or did they act aright in breaking down the Settlements of the Nation, in order to what you call Restitution of Right? For my part I would not vindicate an Inheritance by the slaughters of poor harmless people in the prostration of their Civil Settlement, to gain the most absolute Empire in the whole World; For I think no one mans near personal interest in any external privilege is worth one innocent mans life, whatsoever your, or other Martial Opinions may be in these Matters. But if you justify those Sanguinary Commotions, and Barbarities against the Publick Settlements heretofore for the reduction of the Heirs Lineal, and can tell us, that we can have no Peace in our present State, I hope henceforth your Party will not say, that I enrage the present Powers against them, since you openly proclaim an irreconcilable War against the Established Constitution, and blow the Trumpet for your own destruction, if the Government were not gentle, and compassionate to your very Ravings. But whereas you charge us for having conjured up Confusions, and pleading for the continuance of them, I shall reply, that all the Evil, that hath been done against our Constitutions, from the time that *King James* began to vacate our Laws, and to embroil us in discords,



discords, in order to an Arbitrary and Popish Government, until the day of the new Settlement under their present Majesties, contributed to our Confusions, and every Party to those Evils, of what Character soever, must account to God for it, who will admit no Plea for those Evil Actions; or Confusions. But on the Day, in which the Prince became King, our Confusions ended in an orderly, peaceable, and (were it not for your unquietness) an entirely happy Settlement, for the continuance of which we plead against those unsupportable Confusions, to which your bitterness would reduce us. And now (as ill luck would have it) we are fallen in on Bishop Overal's Convocation, who can have no ease neither, because of our Confusions. But now, I pray, what have I said of that Monument they have left behind them? No more than this; *And Bishop Overal's Convocation Book comes up to it.* To what? Why to this, that a full Settlement under Extra-lineal Kings must be submitted to both by the Clergy and the People. And doth it not come up full to this in their First Book and 28th Chapter and Canon? Where it assigns this Obedience to the full Settlement even of ambitious Princes; and Rebels; procuring that thro' Settlement by wicked means. And in the 27th Canon of the same Book it is resolved, *If any man therefore shall affirm; — that any person, born a Subject, and affirming by all the Arguments, that Wit or Learning could devise, that God had called him to murder the King de facto; under which he lived, yea, tho' he should have first procured himself to be proclaimed, or anointed King; as Adonijah did, &c. — he doth greatly err.* Now a King *de facto* with this Synod is one that is in by full and legal Forms of Settlement; as by Submission or Continuance, *Lib. I. Cap. 30*, tho' attaining thereto by unjust means. And such Submission to such thro' Settlement is what alone

I quoted this Book for ; and whatsoever fate other mens Theories hereupon have incurred, sure I am I have not declined the least from the Sense of that Synod, who in those passages had an undoubted aspect on our several Revolutions, and actual Settlements under those Extra-lineals, whom the Lawyers have styled Kings *de facto*, by a Distinction from those that are *de jure*, whose terms herein the Convocation used. Otherwise their Determinations herein could be of no use to ratify any Settlements past, nor to direct us in time to come, how to end our Confusions, or when to be at peace.

Dyscher. *At last you very gravely give us your Opinion, that in the late Oath of Allegiance the word [Successors] was added after [Heirs] on this very self same Ground, that tho' Heirs by the Ordinary Course are the Legal Successors, yet others legally may succeed in Cases extra-ordinary. This it is for men to give their Opinions without Book, and without any other consideration than to pervert the State of the Case. Had you given your self the small Trouble to read over the Oath, you could not for shame have put this interpretation upon it; for the express words of it are [Lawful Successors] which follow the word [Heirs] by way of Limitation, or Restraint, to shew that none shall succeed but the Legal Heir. And thus, Sir, the words of the Oath, instead of admitting, plainly and peremptorily exclude your extra-ordinary Successors, and extra-lineal Kings. Thus your new invention hath added a fresh absurdity, instead of being a remedy to those many others, which your Party run into upon Discourses of this Matter. And tho' you mince the matter, yet you might have been so bold to say, the Oath requires Allegiance to unlawful Successors, as what you have said; for while there is one in being, and claiming, to whom the Right really belongs, what can your extra-ordinary Successors be but Tyrants, and Usurpers?* T. B's 2d. Lett. p. 20.

21.

Eucher.

*Eucher.* This, I confess, is an amazing Circumvention, if my Memory hath in truth beguiled me. And 'tis a challenge enough to shock a greater confidence than mine. To prove this therefore we must recur to the Form Enacted by the Statute, Anno Tertio Jacobi Regis, &c. *Also I do swear from my heart, that notwithstanding any Sentence of Excommunication, or Deprivation, made, or granted, or to be made, or granted by the Pope, or his Successors, or by any Authority derived, or pretended to be derived from him, or his See, against the said King, his Heirs, or Successors, or any absolution of the said Subjects from their obedience, I will bear Faith, and true Allegiance to his Majesty, his Heirs and Successors, and him and them will defend to the utmost of my Power, against all attempts whatsoever, that shall be made against his, or their Persons, their Crown, and Dignity, by Reason, and Colour of any such Sentence, or Declaration, or otherwise; and will do my best endeavour, to disclose and make known unto his Majesty, his Heirs, and Successors, all Treasons and Traiterous Conspiracies which I shall know, or hear of to be against him, or any of them.* These are all the times the words Heirs, and Successors are mentioned in the Oath, and in these here is no Character of Lawful set at all. So that here you fall under the same fault you charge upon me, of not reading the Oath, and another added in a bold interpolation thereof at all adventure; or if you have read it, 'tis the greatest of all prevarications consciously to misrender it; but whether it were the one, or the other, it is the most frontless, and unparallel'd impudence to down-face an obvious Truth with notorious Falshood. And yet have a little patience to see what you had gained by this remark, if it had been true.

You had said, \* *That the Oath* \* Sol. & Ab. p. 3.  
of *Allegiance binds to the King,*  
*his Heirs and [ Lawful ] Successors;* and I taking it  
E 2 for

for granted, that you interjected the word [lawful], not as a part, but an interpretation of the Oath, denied it not, but without any cavil candidly admitted it; but because I formed an Inference from that Oath, that you like not, you interpolate the Text of the Oath by foisting in the word [lawful], that hence you might draw a pretence, that Lawful Successors limitedly denote the Lineal Heirs. But neither would this have held; For had the word [lawful] been found in the Oath, my Argument

had still been good, \* *That in*

\* *Sol. & Ab. p. 5: the late Oath of Allegiance, after the words [Heirs] the*

*words [Lawful Successors] were added on this very self same ground, that tho' Heirs by the ordinary Course are the Legal Successors, yet others legally may succeed in Cases extraordinary. Nay this legality of such extra-lineals had been more fully acknowledged, had the word [Lawful] been inserted, than now it is. For now if a man would be perverse, and were there no other Reason upon other Bottoms, he might argue, that this Oath simply setting all Successors, without any express Qualification of Lawful to exclude unlawful, requires Allegiance to all Actual Successors indiscriminately, without any reserved respect to any legality, or illegality. But whether we suppose the Quality of Lawful as intended by the Sense, or no, the addition of [Successors] after [Heirs] denotes, that their may be Successors, to whom our Allegiance is by Oath secured, that are not Heirs in the strict sense of Lineal Descent; or else after [Heirs] no word of that Importance ought to have been added. But as I was at first candid in the Concession of the Legality, so will I here give you the reason of that Candor. Having then observed, that all Duties respect Laws, and that what is not Legal, can have no Legal Obligation, and*

and withal that the Oath obliges to the Successors of the very same Legal Sovereignty established here, it appeared to me, that he that comes into any other form of Sovereignty over us, hath no right to our Allegiance by virtue of that Oath, or the old standing Laws, whatsoever Title thereto he may acquire by virtue of New Laws and Constitutions. But if he assumes a Sovereignty that is in no wise Legal, 'tis Tyranny in Form and Nature, and while it is barely such, the man is an Enemy, and no Allegiance can be due to him. Now the Legal Forms, by which Extra lineal Kings are invested with the *English* Sovereignty, stand in Admission and Recognition of our Estates, when insuperable Exigencies, or just Causes incapacitate the Heirs Lineal to reign over us, or us to be reigned over by them; of which Obstacles in a state of Anarchy the Estates are our Supreme and Final Judges.

*Dyscher.* But what have you to say to an Impartial Reflection, which I shall here offer you from another hand, viz. that you maintain, \* *That by our Oath* \* See Sol. & Ab. p. to King James we are bound to 6.

*pay Allegiance to King William, which seems so strange a Paradox, that the defending of it must serve only to let the World see, that there are no Words, nor Oaths possible to be framed, for which men may not find Distinctions and Salvo's, to turn them which way they think fit, even directly opposite to what they were at first intended.* MS. Reflect.

*Eucher.* Truly, Brother, this looks rather like whining under an Argument, than an Answer to it; for men seldom make a moan under any Objection they can solve. Yet is your Reflecters Complaint herein as little sincere, as manly. For I said not that our Oath to King James alone obliges our Allegiance to King William, as you from

\* Sol. & Ab. p. 4.  
to p. 6.

him represent me, but that  
\* putting all together, that I  
had said, my concluding Opi-  
nion was, that our Old oath of

*Allegiance* (supposing it still in force) to the King, his Heirs, and Successors, binds us to pay Allegiance to King William and Queen Mary, as the present actual recognized Successors to King James upon extinction (though not of his Life, yet) of his Sovereignty. And this you can never disprove, except you either shew, that in that Oath the word [Successors] so distinctly set after [Heirs] three times in the same Paragraph, was purposely set to exclude all Extra-lineal Kings for the time being, whereby all the Statutes, and former ties of Allegiance actually owned under the past Extra-lineals will be repealed by this Enacted Oath, and all Judgments ever since past accordingly vacated; or else that King William and Queen Mary are not actual Successors to King James in this Sovereignty, by the same, or as legal forms of Constitutions, as other Extra-lineals were before them, by a National Admission and Recognition; tho' somewhat more than Extralinear Forms may be challenged to Queen Mary upon her Fathers Abdication. Now when you, or your Prompters perform either of these Exploits, then use your invective Powers even unto hoarseness; but till then 'twill not be prudent at the same time to be censorious, rude, and insincere too. But I will not discourage you from going on; I pray proceed in your Charge.

• *Dyscher.* When you had asserted, that Extralinear Successors may in extra-ordinary Cases be

Legal, \* I pressed you to  
shew, how he can be Legal,  
that thrusts out the Legal King,

\* Sol. & Ab. p. 5.

or Legal Successor? And you strained a point to make him so. — But let us see your fine Art of

proving

proving Right Wrong, and Wrong Right. Your Discourse of Kings thrusting out Kings is a direct thrusting out Right, and encouraging, and justifying Ambitious Persons in embroyling the World in perpetual Wars and Confusions. But I shall not expose it as it deserves, because it is nothing to the purpose of a plain known Right, and no Right. T.B's 2d Lett: p. 21.

Eucher. Sir, I think my self obliged to scrape a Leg once or twice to you for your eminent tenderness in exposing my designs in inverting the Characters of Right and Wrong. But, I pray, what fouler exposition had you behind the Veil, than this, that I thrust out Right, and animate men to embroil the World in Blood and Ruins? If your Razor be tender, yet you have a pretty close Hand, which yet I am willing to bear, considering that your Cause is in *ipsâ acie novacula*. But if I may expound your word [Expose] in your true sense, it will signifie [Answer], and then on my Conscience you were in the Right of it. For to answer it as it deserves, is either to confute, or confess it; but you are not ingenious enough to do one, and less ingenuous than to do the other. But perhaps it was an inconsiderable piece of Impiety. Let us see then what was this Draconick Incendiary *Mormo* of mine? Why this verily; \* *Onc King* by a Legal War may thrust \* *Soi. & Ab. p. 5.* out him, that, till he was thrust out, was Legal King of his own People. For the first offending Prince loses not his Sovereignty to the offended, meerly by the offence, till actually thrust out by the offended. This, I think, is the general Law of the Trumpet, and allowed for valid among all Nations. But if you doubt, let us refer the point to the French King, whom You cannot suspect of Unfaithfulness to You, or Your Cause. But if the War be altogether Legal, upon Offences that will warrant

warrant all the process of it, till the Offender leaves his Dominions in the hands of the injured Conqueror, a Just Change may follow here without justifying Illegal Wars and Rapins of unprovoked and injurious Powers. Which tho' it be a Truth most clearly innocent, yet a calumny was necessary to keep up the Ball, and use a Talent. But let this be. I pray, Sir, how shew you, that this is nothing to our purpose?

Dyscher. *If you would make a fair answer here, you ought to give a direct Answer to this Question; If a Person, having really no Right, doth disclaim any Right to a thing, and by publick Declarations doth profess, that he makes no Pretensions to it, nor hath any Design to disturb another in his Right, I say, if this Person shall by ill Arts seize it, doth this, notwithstanding all his Protestations and Declarations to the contrary, even against all Right and Reason, create him a Right, whether he will, or no? &c. T. B's 2d. Lett. p. 21.*

Eucher. Here, I confess, you have taken a secure way to enclose my Answer to your side. And as you have set the Question in learned light, I answer to your Hearts content, that such a Person shall hereby have no Right, either with, or against his will. And to all such Questions I had given you a round and comprehensive Answer before to the same purpose, tho' it so often escapes your notice, belike for its inconsiderableness. Yet it being a right Answer, you shall have it in both Ears, whether you will, or

\*Sol. & Ab.sp. 5. no. And it was such; \* And even an unjust Potentate, tho' he cannot according to Legal Justice out a King, against whom he hath no Legal Cause, or Right of War, yet if he doth so, and the subject People cannot help it, and he enforce himself upon the People for a new King, our Laws in this concur with the Laws and Practices of all Nations, in allowing our Estates



*Estates to determin for us in such Exigences, as is manifest in the long Contentions, and many Turns between the Houses of York and Lancaster; and the sin shall lie only on the injurious, and not them that submitted to an inevitable fate of things. And again, \* Wars and Victories are many times unjust, yet they, \* Sol. & Ab. p. 6. that suffer the injury, lawfully submit to the unlawful and injurious demand of Submission. So that taking Right for a Title founded in real Justice, no man really can have Right in the sight of God by a meer unjust Act, or Acquisition. And yet, tho' the preparations to acquire new Kingdoms or Dominions be unjust, if that very constituent Act, which transfers the Possession, does at the same time infringe no mans present and permanent Right, such possession becomes Rightful. But all this is nothing to the purpose. For our Question is only of who, or what is formally legal, not what is in real honesty morally Rightful. For all Possession, which a man obtains by legal forms of Process, either in War, or Peace, is formally and apparently Legal to all Civil Purposes and Constitutions, tho' the Cause obtaining be far from being really and morally right. And a man by legal Judgment may *de facto* be put into possession of what another man hath a real Right to, so that the possessor shall have the Legal Form of Title in what is really anothers Due. And in all such Cases all Affairs belonging to such Estate follow the Legal Tenure of the Possessor, who is therefore in Law taken as *bonæ fidei possessor*. And even antecedently to Judgement quiet possession in a private Estate, tho' slipt into by cunning Frauds and Artifices, against which there is no Civil Law, is taken by the Law for formally Legal, till the Occupant loses it, either by Art, or Judgment. Now all independent Persons, and Princes, that are subject*

subject to no Judicial Tribunal, contend by War, not Law, and what they settle themselves in by the forms consequent upon War, they have such a formal Title to as the Laws of War and Revolutions yield them, and no other; tho' whether Cause is just, and consequently thereupon whose Possession is honestly rightful, none can effectually judge but God amidst so many pretensions. And in such Turns the Subject People must, or may lawfully yield to the formal Titles, or Fates of War, since they are not authoritative Judges on the Causes, or Rights of the Quarrel, of which mens private Opinions are most times very contrary, but can hardly ever be sure, or unanimous. And by this Rule all Nations go, and there is no better; tho' God forbid, that any man should be obliged to think all the Spoils of War and Law to be really honest, and morally rightful. Now according to these Rules and Distinctions I asserted that Extra-lineal Kings may be Lawful Successors in Cases Extra-ordinary; and I will add, upon Causes really Just, Rightful Successors too. And let you should quarrel at this Distinction, as of private Invention, but no publick Character, I refer you to the late Oath of Allegiance in the first Paragraph, where our late Sovereign Lord K. J. is declared Lawful and Rightful King of this Realm, &c. that he might be taken for not only *de facto*, but *de jure*, King. But amidst all this Dust, of what use is a General Question or Position, except it properly affects our particular Cases? So that in order to the Censure you design upon *King William*, you ought to have charged all the Facts in your stated Question, directly upon him in the Course of the Revolution, with exact congruity and accuracy; that you might have evinced his Illegality, or Incapacity of Right in the Possession of this Crown. But this you perhaps fancy every body can do. But I will  
in

in truth try, whether it can be done, or no. I allow you then in the foundation, that the Prince of *Orange* at his Descent, as he had no Right, so he pretended none to this Crown, and declared his Intentions not to injure *King James* in any his Personal, or Royal Rights whatsoever; but then I deny that the Prince seized the Crown by ill Arts, or any breach of publick Protestations. For when he came in the Head of an armed Force, he declared, that he came not for the Crown, but a Decision of his Cause in Parliament, to which end he sent the King fair Articles of Truce and Treaty during the Session. But the King refuses, or neglects the Proposals, and leaves the Kingdom in Anarchy. Now all such Declarations in War have this natural, obvious, and perpetual intention, that if the matters in Controversie be adjusted as demanded, the Prince demandant will be fully satisfied, as having no design to seize his Adversaries Dominions, if he will right the Causes of Hostility in the manner claimed; but otherwise the very form, and Face of War, and Arms is in Fact an open Declaration to vanquish, out, dethrone, and crush the Adversary by all Martial and Hostile Methods whatsoever. So that *King James* neglecting his Demands in not calling a Parliament to satisfy the Prince, cannot complain, that he has broken his Faith, or Declaration in taking his Crown. And further, when the King was gone, there appeared no Force, or Fraud in the Prince's Actions with the Convention, to whose Judgment he fairly left the whole Cause and State of Affairs; and they, having maturely and peaceably debated all things, judge *King James's* Desertion, with respect to all antecedent passages, to be an Abdication of the Government; and withal they judge the Prince's Succours to have merited the Crown, which, with the amicable Concession of the two next Heirs, they cheer-  
fully

offer up to him, which he then accepted, when a fair Capacity and title was thus legally opened to him. So that tho' at first he had no form of Title, Pretentions, or Designs for this Crown during *King James* his Right, yet when this determined, and no other Legal Obstacles interposed, there was a fair Reason to accept that then, which it was not lawful in Conscience for him before to covet, or design.

*Dyscher.* Your instance in the Houses of York and Lancaster comes not up to so plain a Case as this. Where things are obscure and dark, (as that Title was, and perhaps still is to most men) great allowance is to be made. Lancaster had the more

obvious, York the better Title.

\* Here T. B. very charitably makes the excellent Bishop of Worcester to deserve a Gallows instead of a Bishoprick. p. 22.

\* — But what means this preaching up Confusion? The Nation then weltered in Blood and Gore, till an undoubted Title put an End to that quarrel. But you would have

us obstinately maintain a bad Title, that our Miseries might have no End. A rare Example of Justice, and Love to your Country. T. B's 2d. Lett. p. 21, 22.

*Eucher.* It seems then, it was lawful for the Nation to admit the House of Lancaster against the better Title in the House of York, or else what allowances do you make upon the Obscurities of the Title? But does it follow, that the House of Lancaster had a real Right? If so, then an extra-lineal King may be Rightful; If not, then Allegiance may be lawfully yielded by the Nation to extra-lineals, who are in by legal Forms of Settlement and Recognition, tho' not really Rightful, or Lineal Heirs. For so upon your great allowances the House of Lancaster, when enthroned, was visibly Legal tho' not lineally Rightful; and does not this then come full up to all the purpose I designed?

For

For it was not meer obscurity of the Descent, tho' much involved before the common World by contrary Pretensions, that warranted the People in these Submissions, but the necessity of ending Spoils, Rapines and effusions of Blood. For if the competitor Houses would have acquiesced in the judgment of the Estates, they could well have determined for the better title upon a fair Heraldry, or production of Descents. But the Families, as opportunities offered themselves, were generally restless under the Superiour House; but those stirrs were legally ended *toties quoties* by Parliamentary Recognitions. But the final end was not procured by the clearness of an undoubted Title, but by the Marriage of the *Lancastrian* King *Henry VII.* with the Lineal Heiress of the House of *York*, by which all competitions closed; but *Henry* stood upon his own bottom in the National Recognition through all his Reign, and neither yielded subjection to, nor derived his Title from his Queen. But yet let us see in dubitable cases how great your allowances would be, and particularly in the *Lancastrian* Reigns? Supposing then the Title between the two Houses dubitable, or doubted only with one part of the Nation, but certain to the rest, shall both these Parts swear one Allegiance to the Title, which is doubted by one Part, against that Title which the other Part is certain of? If so, then you allow one Part of the Nation to swear against a Title, which they know to be certainly Right; Or must the doubting Part concede to the Title, which others know to be Right? If so, then the *Lancastrian Line* cannot be admitted, or capable of any your allowances. Or must there, in this Case, be two Kings for the two Parties, and two Allegiances in this one Realm? Or what if the Competitors, and Doubts multiply, where shall these, and their Divisions end? But suppose the whole Nation to doubt of the Lineal Right, will you  
require

require them to swear Allegiance to a doubted Title? If not, then what allowances do you concede under these doubted *Lancastrian Reigns*? Or what Judgment pass you on the Allegiance then always given? For so there must have been none sworn at all. But if you will require a Nation to swear to a doubted Title, does that Oath import an assertion of Right, or no? If it does, then you will require a Nation to affirm that upon Oath, of which confessedly they are not certain, and that is one degree of Perjury. If such Oath does not (implicitly at least) assert Right, then it is no acknowledgment of Right, nor founded on the presumption of it, which yet however you all contend for, to render our present Allegiance in this point perjurious. But it is hardly possible to suppose a whole Nation in doubt, when there are Competitions; For the Competitors, and their Complices, or Parties use absolutely to assert their Right without any doubt, or pretence of doubting, and then they that doubt, tho' the generality, must either suspend, or go over upon uncertain Trust, whereby they may exclude the Right unawares. But if you will make allowances in doubtful Cases, then what think you of the Questions arising upon *King James's* Desertion? Did they afford any possible occasion, or ground for disputation, and scrutiny? If so, then it ministred doubts to be discussed, and the Case was dubitable; But 'tis a vanity for you to say, that it gave no possibility of disputation, for they that disputed it thought otherwise, and between their and your Opinions doubts must arise herein among the multitude, to whom therefore your great allowances are to be made in their present Allegiance. But to deal plainly with you, I think no Man, or Nation is to swear upon what is to them dubitable, as what is honestly rightful may be; but what is visibly, formally,

mally, and judicially Legal cannot be, as coming home to the Senses of the Subject by publick ways of notice, and operation; and therefore all suspences and personal doubts must herein concede to such judicial Determinations, to put an End to all those Miseries, with which you unjustly charge us, and maliciously threaten us.

*Dyscher.* As for the Cession you mention, you would do well to prove it a little better, before you thus run away with it for granted. You know we deny it, and have given our Reasons for it, to which I know no Answer returned, unless it be Goals, Fines, and Pillories, and threatnings to help it with Hemp. T. B's 2d. Lett. p. 22.

*Eucher.* I think upon recollection you may find very full proof of the Cession already made; but at your demand I will offer you another, which, tho' not better in it self, yet will be better for you, because it is of your own approbation.

*Dyscher.* I pray, what is that?

*Eucher.* Do you not excuse the Desertion from being a Cession, because he went away to save his Life?

*Dyscher.* Yes, I do. See T. B's 2d. Lett. p. 15.

*Eucher.* Did you not tell me at our last Conference \* that *Abiathar* at *Solomons* command went of \* *Sol. & Ab. p. 22.* to *Anathoth* to save his Life thereby? And yet that his Priesthood determined by his own voluntary Cession herein?

*Dyscher.* I have indeed owned, \* that it was a manifest Cession on *Abiathar's* \* *T. B's 2d. Lett. p. 36.* part, and I think it was well proved; but then *Abiathar* did not oppose a claim, as *King James* does?

*Eucher.*

*Eucher.* If you mean a verbal owning the Right of the High-Priesthood, 'tis a hard matter to judge what *Abiathar* might say hereupon at *Anathoth*. Yet admitting his silence under *Solomon's* Sentence, and his Recession to *Anathoth*, to be a real Cession from his Office, in Law, this being once effectually past, and after claim could not

have nulled this Cession, any  
 \* *Vindic. of Depr.* more than he \* that quitted  
*Bish. p. 70.* his See by leaving the *Omo-*  
*phorion*, could null that Act

of Resignation by a verbal Protestation to the contrary. For such Cession, being a positive Act, consists in quitting an Office thereby vacant, and when that is filled with another Officer, 'tis too late for the Cedent, or Deserter to renew a Claim, and say his Desertion was no Cession, which is nothing else but a vain Protestation against manifest fact, which is perfectly *King James's* Case.

*Dyscher.* He had need of a Case-hardned Face, that will undertake to defend what you say, that

\* the Hereditary Succession was  
 \* *Sol. & Ab. p. 5.* not violently broken, but altered by the Consent of the next

*Heirs.* Sir, it was broken with a witness, for there were four before your Idol; and now there are six; and will you say, there was no violence, when our Native Prince was close confined in his own Kingdom? — But now you will needs persuade us, that this was done with consent. Now you would have done well to have produced the consent of King James, and the Prince of Wales, who ought to be served in the first place. And then as for the two Princesses, whom certainly you mean by those, whom you fashly call the next Heirs, they may dispose of their own, as they please; but they ought not, cannot give away anothers Right. Only as to the Princess *Ann* of *Denmark*, if she have given up her  
 Right;



Right, it will concern her for her safety, to make it as publick as she can; but if she have not given it away, it then perhaps may concern her to make as much haste after her Father as may be, and to carry her Son with her out of Herod's Clutches; for if her Sister should die, 'tis ten to one it comes too late, T. B's 2d. Lett. p. 22.

Eucher. I thought, when you and I began Conferences on this Subject, we should have only talked of Casuistical Points in order to the information and conduct of our Consciences, and not have deviated into such an Unchristian and Seditious Railings And it grieves me on your behalf to the very bottom of my Soul, to experience so much disingenuous bitterness in a man of your Character. But since you are so unhappy as to know no bounds of moderation, I must touch your miscarriages a little lightly. After the Cession of *King James*, I said the Succession was not violently broken. And in answer to this you mentioned the *Dutch Guards* assigned by the Prince to attend *King James* before his Cession; And this you falsely call a close confinement, for had it been such, how had he so easie liberty of going off? But whatever this was, it was before the Cession, and then what is this to the after proceedings of the Convention, of which alone I was speaking as not violent? Then you as improperly require the Consent of *King James*, and your *Prince of Wales*, who must be served first, as antecedent in the Course of Descent. Now I must tell you, that there are among us, some, who, thro' joy of our Deliverance, having forgotten that Compassion, which I deeply have for all Royal Tragedies, would be apt to make a jest of this, and reply upon you, that they have been served well enough in the first place, before the Prince and Princess

of *Orange*; who are well enough served too, and all as they deserve. But I shall only oblige your inconsiderateness of discourse in bringing in *King James* into the Catalogue of his own Heirs after his Cession, upon which I said the Succession was not violently broken, but altered by the consent of the next Heirs. And this, I think, I may still defend without breach of modesty, even tho' I should allow the proceedings of the Convention to have been violations of his Right. For a violent Expulsion of a Possessor may consist with the true Succession of the next Reversioners. But admitting the Cession, or Abdication for real, what need was there to solicit his further consent to our Establishments? And for your *Prince of Wales*, beside the doubt of the Nation concerning his Descent, the late Queen brought him into a Cession before the Cession and Abdication of the King, nor were there any Claims entred for him before the Convention, and so he might be legally neglected for want of Claimer. I know this has been charged on the Prince, and the Convention for not admitting the Discussion of that Descent. But, I think, no Law could oblige them to move it *ex officio*, when he was absent, and no Promoter appeared on his behalf. But further, to enquire into the Equity hereof, if *King James* at the Prince's demand had called a Parliament, that had been one of the Principal Articles to have been judicially determined by the Parliament between them. But *King James* not calling a Parliament, nor allowing the Convention power of Judgment herein, there was no reason such a Question should be admitted there, which, if determined against *King James*, and his *Prince of Wales*, should not have concluded them, but, if given against the Princess of *Orange*, should have confined and excluded her.

her. As to your politick stroke upon the Princess of Denmark, I shall reflect no more than this, that if she will permit you to the Conduct of her Counsels, she is like to thrive mightily by it. For you will advise her either to present flight, or sedition, only to make way for I know not what, or how many new Princes of another Venter, whose real Descent no one should ever know but the Men of the Mysteries. Perhaps your Agents have laid the Seeds of Discontent between the two Princely Ladies already, in order to form your other Projects; but I hope that God, that has hitherto preserved them in their natural Rights, against all the Arts of those who would have illegitimated, or intercepted their Succession, will still preserve her Royal Highness from the Snares you lay for her. And since you have blurted out the Secret to the Publick, she, and the whole Kingdom have reason to take close notice of it.

*Dyſcher.* When we object the immoralities of these proceedings, you tell us, \* *That the internal immorality of all Actions must be carefully distinguished from the Civil Consequences of them.* — *A Son, say you, by fraudulent Arts gets judgment in Law, and seizes his Fathers Estate, and Body by Execution, and starves his Father in Prison; this mans immorality is damnable; — Yet the Judges, Sheriffs, and other Officers are innocent. It may be so, while they act as Officers of Law, and according to the directions of Law. But if your Judges, Sheriffs, or other Officers join with, and assist such a wicked Son, or Daughter, to effect such an Evil Act, or do applaud and approve it, when they know it be done by such wicked and unlawful Acts, then their being Officers of Law will rather increase than diminish their Guilt.* T. B's 2d. Lett. p. 23.

*Eucher.* Now all this I allow too, whether done judicially, or in forms of Law, or no. But if it be done in private, and not in Legal Forms, it is nothing to our purpose, or my objection. But if the Judges sit in Judgment between the Father and the Son, and very wickedly cast the Father in his Cause, yet it being done in form of Law, the Judgment will pass into such Execution, as will be taken for formally legal, tho' the Judgment be morally unjust, and contract an heinous Guilt on the Conscience of the Judge. So that still the Subject People are innocent in admitting the Acts of the Convention as Legal, tho' really before God they had been Unrighteous Judges. Yet because you herein sharpen a Dart against the King and Queen, tho' I never intended my Objection to such a Reflection, the Case you set is not parallel to ours. For the Convention sat not in Judgment between the Father, and Son, and Daughter, the Father not being subject in Law, nor submitting his Cause to them; but when the Father had left his Royal Estate, the Prince calls them together to settle the forsaken State of the Kingdom, which they did as it now stands. And as this Judgment was in Form, Legal, and Authoritative, so you cannot prove it immoral, or injurious. For as the Estates were not concerned to enquire into the temper of Spirit in the Contest between the Father and the Children toward each other, which was not of Civil Cognizance, so they debated only the Civil Purposes of *King James's* Actions, and how the State of this Land might be legally and securely fixed after his Desertion, in which they acted as Legal Judges, and no otherwise. What was done before, or out of Convention by any of the Members, and the inner motions, and aims  
of

of particular mens minds there sitting during these agitations, these are extrajudicial, and so not chargeable on the whole Court as a Council of State, as being no parts of their formal Determinations.

Dyscher. *So for your Robbers, and Pirates; a man may lawfully suffer by them, tho' it were better, if he could escape it. But if you will plead, that their Robberies and Piracies are lawful; if you say, they acquire a just Right to what they get by such wicked means, or if you actually joyn with them, and rob, and share in their Booties, you will be as very a Rogue as they; and which is most like the Case, I leave others to judge.* T. B's 2d. Lett. p. 24.

Eucher. This, it seems, is your reply to what I said, \* *That Wars and Victories are many times unjust, yet they that suffer the injury, lawfully submit to the unlawful and injurious demand of Submission, as in Piracies, and other like Tyrannies.* And is not this a pretty Refutation of that Assertion, to say, that all that assert, assist, and share in Wrong, are Rogues? The reason of my instance was, that such Pirates, and Tyrants often seize on such as they have no Right of Dominion over, and may perhaps threaten to torture, or destroy them, except they submit, and contract a perpetual Servitude by Oath, or other forms of engagement, which they under such Exigences may lawfully yield to. And proportionably the Estates of any Nation may be thus pressed by an irresistible Prince, and thereupon lawfully submit to that injurious Demand of such Prince. Nay, if any Prince and the fiduciary Council of any Nation concert to oppress the Subject People by an unjust demand of Submission, they, being, not only in Fact, but Legal Consti-

tion; incapable to resist, may for the same reason contract Submission, or Legal Allegiance, when their former Lord hath left them without order, to shift for themselves, and acts not within his Sphere as heretofore. For herein you do not injure him, but save your self, which he has no right in such cases to deny you. And this at least is the Case of all those, who have taken the Oath of New Allegiance, without doing any thing else in the Revolution, tho' the Prince and our Convention had really done *King James* and us wrong. For we could neither in Right, nor Fact, oppose it; for our Representatives, and the Lords having determined upon the Nation, we were inhabil to censure their Judgement, and consequently to oppose or subvert, what we had no Authority to condemn.

*Dyscher.* *Much such another instance is \* your Lord of a Mannor. Let him loo' how he came to be so. I may treat with him as Lord of the Mannor, whom the Law declares to be so. But if the Lords Tenants conspire against their lawful Landlord, and dispossess him of his Mannor, and invite a Stranger, and say, and swear he shall be Lord of the Mannor, and accordingly pay Homage and Fealty to him, Sir, you may determine for their swearing and lying too, if you please, but I shall have nothing the better opinion of your honesty for it. T.B's 2d. Lett. p. 24.*

*Eucher.* I observe two grand defects in this Reply; One, that 'tis not supposably legal, that all the Tenants in the Mannor can by Legal Forms of Judgment dispossess a Lawful, and possess a wrong Person into the Lordship of a Mannor, because these Tenants are not Judges in Law. And any other violent and illegal Forms of Expulsion, and Admission quadrate not with our Case.

But

But *Secondly*, 'Tis a very silly supposition, and never any where exemplified in Fact, that all the Tenants (under a state of National Government) should violently out a true, and put in a wrong Landlord *vi & armis*, and swear, and pay the wrong Possessor all the Duties of the Homage accustomed, when the Lord that is in by Law, will bring the strength of the Country to reduce them.

And *Thirdly*, You cannot duly apply this to our present Case of Allegiance. For all *King James's* Subjects did not concur to out him, either violently, or judicially, nor consequently to bring in the Stranger, which is the form in which you state the Case of Rebellious Tenants. Otherwise however my parallel holds good, that if a great many of the Tenants conspire with a Stranger, and bribe the Judges to a corrupt Judgment against the old true Landlord, who being thereby ejected, the Stranger comes in by forms of Law, I say still, the rest innocent Tenants, tho' conscious of the Wrong, may swear Homage, and Fealty to the New, *de facto*, Landlord. And so here put the Case, as you would have it, at the worst, that never so great a part of *King James's* Subjects had with the Prince of *Orange* actually conspired against him, and made him fly, and thereupon a National Court assembling to sit upon the Tenure of his Estate, had been corrupted to give wrong Judgment against him for the Prince, yet the form of Process being legal, the innocent Subjects may, or must take him for their Royal Landlord, that is in by Forms of Law, and swear him the customary Homage, and Fealty. But for the justice of that Judgment I have fully advocated already, and so in this place shall have no need to make repetition,

Dyscher. But let the Fifth Commandment look to it self; for it was never so hardly beset. You say,

\* That from the Fifth Commandment we cannot charge King William with subjection to King James, &c. — But

\* Sol. & Ab. p. 7. does a Nephew, or a Son in Law owe no Duty, if he owe not that which is properly called Subjection? Or may a Man, because he is not his Subject, spoil another of all he has? And must all persons applaud, and approve the Act, and swear he is in the Right? T. B's 2d Lett. p. 25.

Eucher. Since I must bear the penance of answering your loose and impertinent Questions so often inculcated, know you then, that as to the point of Duty, a Nephew owes an Uncle, and a Son in Law owes his Father in Law, Reverence on the account of those Relations, if the Superior Relation loses not his Title to that Reverence by ill usage, For if an Uncle shall misuse a Nephew, or a Father in Law the Son in Law, without Cause, and will not fairly adjust, or refer their differences upon demand, the Nephew, and Son in Law owe no respect at all, for that such Uncle, and Father in Law is worse than a stranger, and a most unnatural Enemy; And therefore the Nephew, and Son in Law having not derived their Being, Maintenance nor Education from the Uncle, and Father in Law, and being under no present dependence on them, are free to vindicate their Causes against such Uncle, and Father in Law, by those ways of defence, that they are legally capable of, either by Law, Arbitration or War. As for injustice, you know I am no Advocate for it, and therefore your Interrogation hereupon, with your Reflection upon his Majesty, is as invidious toward me, as injurious towards his Majesty, as I have before abundantly shewed.

Dys-



Dyscher. *The Case of an own Daughter is still more severe; but for that you say, \* she is in Duty bound to follow her Husbands Fortune, 7. Order, and Authority, even against the Will of her Father, and that with a more plenary consent, if she judges her Husbands Cause to be just in it self.——But, Sir, I am not satisfied with your bare word, that a Woman is thus bound to follow her Husband thro' thick and thin;——let her have a care how she becomes partner in his sins.——But doth the Duty of a Wife take away the Relation of a Child? They may indeed limit each other, so that the Father may not command the Daughter any thing inconsistent with the Duty of a Wife; nor the Husband the Wife any thing inconsistent with the Duty of a Child to a Parent. But yet the great end of these Relations is to strengthen, and support, and not to destroy each other.—— Besides your Reason is a mistake in it self as to this Case; for could you with all your tricks of Legerdemain remove both King James and the Prince of Wales out of the way, then there would arise another Relation, and then he in these Dominions must follow her Fortunes, not she his.——But to let this pass, all that has been done is contrary to the Duties of those Relations, which they were, and are under by the Fifth Commandment. T.B's 2d Lett. p. 25.*

Eucher. But all this is but noise and shuffle. For why had you not openly denied, or yielded the truth of my Proposition, that a Wife is to follow her Husbands Fortune, Order and Authority, against the will of her Father, if she thinks her Husbands Cause to be just? For tho' you will say, \* This Judgment is not worth a Farthing, except the Cause be

\* These words I unawares omitted in the last Citation of T.B.  
just

just in it self; Yet be it just or unjust, she must act upon her own judgment of it. And to what purpose have you such a care that she follow him not thro' thick and thin in his sins? Did I ever assert that liberty to a Wife, or to the Princess of Orange? Do not I expressly except out of this

Cafe, \* *all violations of all those Decencies, that are yet, notwithstanding her Marriage, due by the Fifth Commandment to her Father, which are consistent with her Husbonds Rights and Interests, and in her Rightful Power to perform?* But this was another inconsiderable, which you in great sincerity have omitted, that it might not justifie my piety to the Fifth Commandment, and prevent all occasion of reproach. But I think you are a very loose Casuist for a Wife between the Authorities of Husband and Father, if you think that the Husbonds Power limits the Wife only in those Commands of the Father, that are in themselves inconsistent with the Duties of a Wife, whether the Husbonds prohibition intervene or no; (for except this be your meaning, 'tis nothing to the purpose, nor against me.) For it is not the Husbonds Power, but the Law of God, that binds the Wife from the violation of her Duties to her Husband, as it does bind her to keep her Duties to her Parents, and all other persons, even Subjects, that have no power over her. But by your favour, if a Father commands a Married Daughter in any indifferent thing, importing in it self no ill to her Husband, she has no absolute Authority to promise, or do it, but on grant, or just presumption of her Husbonds leave; for if he forbid it at any time before it is done, the Wives hands are in duty bound up from the performance, and how faulty soever the Son in Law be in his perverse and need-

needless inhibitions, the Daughter is discharged of all Guilt in the non-compliance to her Father. So that, strictly speaking, all Imperial Power, meerly human, is in things, that in themselves are left at liberty by the Laws of God. And now whether I have said any thing more, or worse than this, speak out without wrigling, and subterfuge. And yet to deal openly with you, and piously (I hope) with the Laws of my Creator, I think there is a great latitude of equity in this Fifth Commandment, and that it consists not in a meer indivisible point, nor is founded meerly in the Relation, but the Causes and Designs of it by the Ordinance of God and Nature. For Parents being Vice-Gods to their Children, while under their Family and Dominion, the more they Resemble God in their Offices of Piety, especially toward God and their Children, the more their Children are bound to honour them, even when they are sent off from the House of their Parents, to found new Families, and to subsist freely by themselves. For tho' the ties of proper subjection are then loosed, yet the Duties of Honour still remain uncanceled. But if the Parents recede from their Piety toward God, the common and Supreamest Father of all, the greater this impiety of Parents is, the less Honour is due to them even from their own Children. And I truly am of Opinion, that if such Impiety grow up to perfect Atheism, or Defiance of God, from which all the long and tender Supplications of the Children cannot reduce them, the Children are discharged from all the Offices of Personal Honour toward them, tho' not of Pity and Compassion for them. And upon this ground the Law of *Moses* does not exempt Enticers to Idolatry from the Vengeance

geance even of the nearest Relations, Deut. 13. 6, to 11. *If thy Brother, the Son of thy Mother, or thy Son, or thy Daughter, or the Wife of thy Bosom, or thy Friend, which is as thine own Soul, entice thee, saying, Let us go, and serve other Gods; — Thou shalt not consent unto him, nor hearken unto him, neither shall thine Eye pity him, neither shalt thou spare, neither shalt thou conceal him; But thou shalt surely kill him; thine Hand shall be first upon him, to put him to death, and afterward the Hand of all the People. And thou shalt stone him with Stones, that he die, because he sought to thrust thee away from the Lord thy God, &c.* So that all such Persons were by the Law of God looked on as a common Pestilence, not to be honoured, loved, or cherished, but destroyed by the nearest Relations.

*Dyscher.* But Parents here being omitted out of this exact Catalogue of other Relations, it shews them to be not within this Law; and therefore that this Law does not derogate from the Honour due to Parents by the Fifth Commandment, tho' they entice their Children to Idolatry; the Reason being grounded on the Authority of Parents over Children, which would be nulled, if Children might prosecute this Law upon their Parents. And for this Cause also by this Law the Wife is not required to destroy her Idolatrous Husband.

*Eucher.* If you will literally interpret this Law only of the very Relations that are expressed, than all other, even less Relations, will be exempt, which is unreasonable. But if you will argue *a majori ad minus*, that if none of these Relations are exempt, surely no less Relations ought to be judged discharged; then the relation of Parents to Children being less than that of the Wife to the Husband, and no greater than

than that of Children to Parents, will be concluded within this Law. Nor could their Natural Authority indemnify them, for all that was from, and under God, and was *ipso facto* forfeit, whensoever they rejected God for Idols. Otherwise such an exempted Authority of Parents must have been a Snare to the Children, to draw them from the Lord their God, or at least to restrain them from asserting their God impartially against all his Enemies. And in the same Chapter, Idolatrous Cities were to be utterly destroyed by all the rest of the People, without regard to any Relations dwelling in them; for when the Judgment of God was past upon them, all Natural Relation and Authority ceased as to all consequent offices of Respect, Love, or Honour, when the impious Apostates were convict, and doomed to excision. 'Tis true indeed, that Law, being in its penal sanction but positive, local, and judicial, does not oblige us, but the natural reason substrate thereto supposes, and indicates all obligations of Duty from all Relations whatsoever forfeited by Atheism, and avowed Irreligion. And accordingly *Asa* dishonoured his Mother in divesting her of her Royal Dignity, because she had made an Idol in a Grove, *1 King. 15. 13. 2 Chron. 15. 16.* Nor is this any breach of the Law of Nature, but the observation of it, for the Law of Nature being nothing else but pure Abstract Reason and Equity, whatsoever is consonant to this Equity, comports with the Laws of our Nature. By these Laws the sins of Men rescind their Rights in many benefits, which had been due to them in a state of Innocency. The Law of God requires us simply to honour all men, it being the natural due of our beings framed after the Image of God; and yet wicked

wicked and ungodly men are to be shunned as spots and blemishes by the Law of Nature, and to be made Anathema by the Censure of the Church. For the Foundation of all Authority whatsoever is God, and all Obligations to all Duties, Civil, Moral, and Religious, are founded in him; so that an avowed rejection of God, puts men out of all claims of Authority, which alone is originally Gods, for a renunciation of God is an effectual renunciation of all just and real Authority whatsoever. The Fifth Commandment therefore being not a meer positive Precept, but a dictate of Natural Equity, is interpretable to particular Acts according to the Rules of Equity, and must concede to superiour and more important Obligations, which will sometimes require us to hate Father and Mother (that is, to disregard their Commands, and forsake their Persons) to keep Gods Commandments, *Luke 14. 26.* If a Son be a King, and the Father a Subject, he must deal with his own Father as a Subject in Civil Causes, nay as a Malefactor, if necessity requires. A Son is bound to defend (even by the Sword, if there be no other way) his Wife and Children from the Sword of his Father, and to save his Country by the Detection of his Fathers Treasons. And many such Cases more there may be, wherein intolerable wickedness on one hand, and greater Obligations on the other, cut off the Ties of Honour and Union, between Parents and Children, Husbands and Wives, and all other Temporal Relations; since what separates men from God, may well disengage them one from another. And to put a particular Case, if a Prince marry a Kings Daughter and Heiress, and the King after becomes suspected of an Imposture, to pervert that Daughters

inheritance, and upon demand will not refer that doubt to the Arbitration of his own Senate, but to elude the Hopes, and just Expectations of his Son in Law, Daughter, and his own People, in this, and other momentous Concernments, he puts all the Laws, Liberties and Religion of his Kingdoms in a Course of Subversion and ruin under Arbitrary and Foreign Powers, may not such a Son in Law endeavour to put a stop to these Measures, and to force such a King to do right? And is such Prince's Wife bound to oppose her Husband in these just Causes, to abet her Fathers injustice and unnatural Impiety? And if the Father being thus pressed by the Son in Law, rather than do the justice demanded, will fly for the succour of his injustice to another unjust King, the Enemy of his People, and in the mean time leave his Kingdom in Confusion, which shall subject it more effectually to his Scourge upon his return with Foreign Forces, may not such Prince, and such Kings Daughter, and a confused Nation unite, and settle it against the ruins otherwise inevitable to them all? For if Natural Ties sometimes give place to Civils of greater weight, here surely is as fair, and just an instance for it, as well can be imagined, or alledged out of History. And that Civil Obligations of greater moment do preponderate against Natural, you your self confess, when you rightly say, had not the constitution been for the time being lawfully altered, the Crown coming to the Princess of *Orange* by meer Descent, the Prince here must have been her Subject, tho' by the Matrimonial Laws of Nature he is her Lord. It is indeed a melancholy Speculation, when the impieties of such near Relations break off all the Natural Links of Duty and Union,

Union, which must never be receded from as long as the Union is tolerable, and consistent with Superior Obligations; but of two Evils the least is always to be chosen, and where two Offices are incompetible, the more important is to be prosecuted. And yet, tho' this be lawful and necessary, 'tis sometimes a Tragical Scene, under which even the Righteous Parties are to mourn, and lament their infelicity in falling into such Straits and Temptations, and are incessantly to pray, that God would put a just and good End to the Disaster, and in the meantime to make necessary Justice and Piety the only Rule and Reason of their Actions in such a State of Division, and inevitable Contention. And such being the form of the present Affairs, if you needs will censure the Morals of your Sovereigns, you ought to allow their Measures all the Charity the Case will bear, which hitherto seems the Care of Gods Especial Providence for us; And if it be so; it is a dangerous thing to Curse whom the Lord hath Blessed. But I have told you, these things concern not us in our Civils, and it is therefore best to leave things secret, and above us, unto God, the Lord and Judge of all men. But as to the Change it self, it is an apparent delivery and blessing to the Nation in the best manner attainable by any means less than supernatural. For a deliverance it is plain we needed, which could never have been secured, had *King James* continued undisturbed in his Reign. Now if an unrelated Prince had desired to help us, yet he had had no Civil Interests to have grounded a defence, or rescue us from any Civil Laws, or Laws of War. Then the Sovereignty given to a Stranger had been a cutting off the Line Royal, which neither *Atwood*, or *Johnson* have

\* yet



\* yet asserted lawful by our Rules: It would also have been a punishing the sins of the Father upon the Children, and inevitably have involved us in intestine Wars. Then again, if the Princess of Orange had invaded her Fathers Kingdom and Crown by any Hostile Forms, this would have looked more violent and unnatural, and seems more than the Princely Lady in Temper or Duty could well or easily have attempted. Time was, before a calm and thorow consideration of things, that matters seemed hard; but I am now convinced, that no other Person under Heaven could in human prospect be so proper a Redeemer as his present Majesty, nor any Form of Settlement devised to fore-fend the Ruin of this Nation, upon whose Strength the Security of all Christendom at this day principally seemeth to depend. And this, and all that I have said to you, I speak with all sincerity; which if it persuade not you, I cannot help that, but I think it is a reasonable ground for that Allegiance, which I have not carelessly or inconsiderately given.

Dyscher. You do us manifest injustice, when you suppose, or feign, that we admit no Settlement under Powers procured by the breach of Gods Commandments. And this in all reason you must do knowingly, and wilfully; because I think there is not one, who on our behalf hath concerned himself in the matter of the Convocation-Book, but hath stated this Question, and always admitted a thorow Settlement whatever were the means whereby it was procured. 'Tis true, we neither commend, nor encourage such wicked doings; but on the other hand we do not think Dominion to be founded in Grace; and that a man cannot have a good Title, unless he be

\* Since Johnson will give Richard Rich a Right.

a good Christian. We can moun over the bad man, whilst we submit to the good Title. But we complain, that we have no Settlement, nor any thing like a good Title, to which we may submit. For who can own that to be a good Title, against which there are prior, and better Titles in being, contesting, and claiming? Or who can take that for a Settlement, where a bad Title by bad means is maintained against a just and

T. B's 2d. Lett. p. 25. good Title? — We say, that a full Settlement in one, while another, who has Right, claims, and endavours to recover his Right, is contradictory nonsense. T. B. *ibid.* p. 40.

Eucher. I very well know, and freely own, that all your Disputations upon the Convocation-Book do in terms allow a full Settlement, however procured, tho' you contradict the Convocation in your notions of a thorow Settlement. But it does not therefore follow, that all of your Party think so. The most, that I have orally discoursed, stand upon the breach of the Moral Laws, as the grand exception against the Right, on which only they can swear Allegiance; since, say they, Allegiance follows Right, and Right

*Note, That in Sol. & Ab. p. 8. I did not make Dyscheris positively to deny Submission to all Settlements procured by breach of Gods Commandments, because I know they do not all deny it; but because it is the common Objection with most of them in point of Conscience, I made Dyscheris reply, not absolutely No; but what if I should say No?*

cannot be founded in Acts morally Evil, and essentially injurious, and consequently by such there be be no full, or thorow form of Settlement. And if you will give me leave to deliver my Opinion, I think, if Gods Providence had not so disposed of things, as to bring that

Book into publick Light by the hand of my Lord Arch-Bishop *Sancroft* in this very Juncture, all your Pleas would have chiefly stuck in the Laws of God, whose violation with you should have been alone sufficient to have nulled all Rights, and Titles. But now as it is, you are pinched by the Authority and the Edition of that Book, and forced against your wills to own it, and have no relief but in forced Arts of Evasion. Such is that demure Protestation, that you do not think Dominion founded in Grace, which you know was, and is a pretence *toto cælo* distant from our matter, as claiming all Secular Rights by virtue of their Religious Character, or Election. But will you allow, that a full and legal form of Settlement can be founded in any Act really injurious? I would have you speak out without boggling, or clouting your Tongue. If not, then the Defect of Plenitude in such Settlements stands in the iniquity, and breach of moral Justice, and Gods Commandments. And in truth this at last is the true English of all those Reasons, on which you complain, that we have no Settlement, nor any thing like a good Title, tho' those Reasons are wrapped up in forms of words chiefly relating to Civil Laws. For the sum of all is; the Possession of another mans Right is no full Settlement, because it has no good Title, as being a violation of Right, and Gods Commandments. Of which I shall have occasion perhaps to discourse more anon. In the mean time, as I have already given you part of my sense herein, so will I now deliver and settle it as full; *viz.* That when several persons claim Right, then *pendente lite*, either in Law, or War, the Legal Presumption of Right must be for the quiet Possellor; but after judgment given to be in the person to whom

it is adjudged, till reverse of judgement, and all other antecedent Titles and Pretensions are to be deemed null and cessant to all Civil Effects and Constructions, whatsoever the Errors, or mens private Senses herein may be; and the condemned Titles must not be taken to be good, and still in being, tho' new claims and contestations may be promoted by the outed Party. Which being premised, I can easily yield you, that that can be no good Title, against which there are prior or better Titles [apparently] in being, contesting, and claiming, and that it is no full and Legal Settlement, where an [apparently] bad Title is by bad means [apparently] maintained against a Title [apparently] just and good. But this is not to be taken in a judged Cause. But who was Judge between *King James* and *King William*, while the former disputed the new Possession of the later with the Sword, to determine the Civil Practice of the Nation? If none, then were we to abide by *King Williams* quiet form of possession; If there were any Judge, it was foreign, or domestick; Now there neither was, nor could be a foreign Judge to oblige us; if domestick, it was either private, or publick; if private, that cannot oblige the whole Nation; if publick, then it was in the Estates convened; but they have judged *King James's* Title void and Cessant, and not in being, and so, tho' extrajudicially claimed, neither just, nor good. But if you will neither allow quiet Possession, nor publick Judgment as a Rule to State Titles Legally, but will throw up all to private Opinions, or Humours, you dissolve all the ties of Civil Society into Eternal Wars, and Commotions. But because you clamour that we have no Settlement, I will make further Advances

vances, and prove the Admission of their Majesties by the Estates of this Land to be a full and proper Settlement, tho' against *King James's* claim and contest, from the Laws of this Land, the universal Usage of all Nations, natural Reason and Holy Scripture.

*Dyscher.* This is a teeming Promise; have a care lest the Production be ridiculous.

*Eucher.* First then I begin with the common Laws of this Nation, which are nothing else but the constant and general Customs of *England*, which Lawyers justify for good and binding upon a fair presumption of their Descent to us from some immemorial Compositions Real and National made by our Fore-fathers; whose Acts and Contracts for future Ages do by the Laws of all Nations bind their Posterities, (that are yet in their Loins, as in the lowest degree of minority) till they are validly vacated. And such Obligations are justified by sacred Instances, as in the Oath of *Jacob's* Children to carry *Joseph's* Bones out of *Egypt*, in the Covenants between God and *Noah*, *Abraham*, *Moses*, in the League of *Israel* with *Gibeon*, and all other their National Contracts, and the Laws of *Jonadab* on the *Rechabites*, &c. So that fidelity to the Contracts, Ordinances, and Compositions Real of our Fathers, and Ancestors obliges us to the Customs, that yet continue as the Common Laws of *England* from that supposed Original; And thus their Legal Obligation is founded not in Force, but in Truth and Honesty. Which being premised, I add, that our Nation in these two last Parliaments, after a full Debate hath judged their Admission of *King William* and *Queen Mary* according to our Laws, Legal, and the second Parliament hath moreover recognized them *King* and *Queen*, of Right according to those

those Laws. And the first Parliament upon this Constitution fixed on them the full Allegiance of the Subject to be secured by Oath as much as to any other Kings whatsoever, that so they might thro'ly make this present Settlement full and entire, which therefore they judged to be such according to our Laws, without any concurrence, and notwithstanding the opposition of the *Late King*, which on his Cession, or Abdication could in their Judgment create no defect in this present Settlement, since the Confusion and Anarchy, we were put into thereby, did in their Judgments give them a Legal Right to resettle as they could under the then Exigences for the Common Preservation; nor did they judge us tied to a State of continued Anarchy during *King James's* pleasure, that while he provided for himself in *France*, by his own private Counsels, without the consent of the Nation, we should be at no liberty at home to provide for our selves against a Ruin otherwise impendent and inevitable. And if we look back to all the Changes in the Succession ever since there have been two Houses of Parliament, the full and final Settlement after all Ruptures, Disorders, and Disputes hath determined in the Recognitions, and Allegiances enacted by these Parliaments, even without the consent, and against the presumed claim of the outed Competitors, tho' these were sometimes Lineal Heirs, and present in the Land. Much less then is such consent, or cessation of pretence, or claim in the relinquishing and absent Competitors necessary to the fulness, and validity of such Settlements. And tho' the Dispossessed afterward moved Stirs and Wars against those past Settlements, that becomes no Argument against their real plenitude  
for

for the time being in form of Law; for by those new Commotions they designed to reduce themselves into such a full form of Settlement by Parliamentary Recognitions, out of which, by present Wars they designed to eject their settled Adversaries; for to a fuller Advancement they could never raise themselves by the greatest force and successes whatsoever. Thus all the precedent Usages in such cases lay before our Estates, first in Convention, and since that in Parliament, and according to these have they made this Settlement as legally full and Obligatory as 'twas possible, as judging it to be so full in its own Nature and Reason, without any present Defects, or Capacities of addition.

*Dyscher.* I wonder you cannot observe here, what you readily can, when it makes for you, that the first Constituting Parliament did not recognize *King William* and *Queen Mary* to be *de jure*, but excluded that Assertion out of the Oath. But the second Parliament recognized their Right, tho' hereby, as you will say, they added nothing of that intention to the Oath. Now then the first Settlement, to which those being tacked, bears proportion, going no further than a Constitution *de facto*, was not at the full, because it came not up to the fuller Recognition *de jure*; which being judicially apparent is with you the Legal Form of Title, and Ground of Allegiance. And so the Oath being required to a Settlement that was not thro'ly full, cannot by Bishop *Overals* Convocation Book be proved due from both Clergy and Laity, for that the Settlement to be sworn to was herein defective. And herein even Mr. *Johnson* is more sincere and honest than you, who scorns

to pay \* Allegiance upon any kind of Success, or forms of Settlement, except they are really founded upon Legal Right.

\* Pref. to the Argument, p. 12, 13, 14.

*Eucher.* It will be as easie for you to observe, as for me to remark, that the Recognition is but a Declaration, not a Constitution of Right; and so adds nothing of Right, that before was really wanting; but more fully declares the Right, that stands and is founded in the first Constitution, which actually was at full before, tho' not so fully declared; this Recognition being designed not only to repress the Contradictions of their Majesties Right and Title, but to compose, as much as might be, mens Doubts and Surmises, and perhaps this your very Objection hereupon. But whatsoever be the Rights, Titles, or Pretensions of Princes to Crowns antecedent to the actual Settlement, they may be fair preparations, and grounds of claim, but they enter not into the essential form, and constituent Reason of a full actual Settlement, which commences and consists purely in a Legal Form of Admission by the Estates of this Realm judging for themselves, that they may lawfully admit this, or that Pretender or Sollicitor, even when they are not permitted to judge any thing on the Right of his demand of such Admission, which belongs to the Question *de jure*. And to those that are thus *de facto* settled, whether they had any real antecedent Right of claiming, or no, the National Allegiance is by publick Contract always given to the full, without any distinguishing Measures, Forms, or Abatements. And this is not only otherwise evident, but is made more so by this present Recognition. For this  
second



second Parliament, that enacted this declarative Recognition of Right, gave, and could give no further Allegiance than had been before given on the meer Legal Form of Actual Settlement, which they in their zeal would have done undoubtedly; had they judged the first Settlement any wise deficient in it self, or its Obligations to a plenary Allegiance, which yet however is of no other form, or virtue than that Allegiance which is always given even to meer Kings *de facto*. Which shews the sense of our Nation to be, that by our Law Allegiance is given to Kings, not on the account of an antecedent real Title to the Crown, but on the account of the Legal Form of Settlement into the Actual Possession thereof, upon which there is no superiour Judge to hear, nor determin Quarrels, and Claims of Titles. And you that require more to the nature of a full Settlement, require more than the Convocation has done, which assigns your Allegiance to the

\* King *de facto*, \* tho' he \* *Lib. 1. Can. 27.*

come into the full Settlement by wrong and injurious means, and requires only a National Submission, or a continuance of quiet possession to the form of \* a full and

thorow Settlement, owning \* *Ibid. Chap. 28.*

the original wickedness of

the seizure to be no Legal Bar or impeachment to the Authority of their Government, into which they are formally and fully settled. And such was the State of the *Cæsars* in the Empire, when the two great Apostles required Christian Subjection to them, not on the moral justice of their Titles, of which they could be no Judges, but on their actual settlement in the Concession and Submission of the Senate, and other

other popular Powers. And such also was the reason of subjection in those instanced Changes, on which that Convocation wisely grounded this their now celebrated Determination. But since you have again upbraided me with Mr. *Johnson*, I cannot choose but observe how naturally men, that run into contrary extreams, do meet in the other side of the Sphere, as you and your greatest Adversaries do in this present Controversie; And you both therefore fall into the same absurdities. Now here Mr. *Johnson* either understands not the formal Nature of a full Settlement, or if he does, he is inconsistent with himself. For if (as I have proved) a National Admission constitutes a Settlement, how can Mr. *Johnson* explode Settlement, when he places the Right of Kings in the Admission of the People? But if he requires any moral justice, to make the Act of the People Rightful, then if the People fail in that moral Justice, how can their Constitution be really Right, by which Justice it self is violated? And such failure in a People is no impossibility, except you will entitle them to an infallible Sanctity in all popular Actions. As for example; Mr. *Johnson* produces but one Authority \* out of *Knyghton*, to

\* *Arg. 1. p. 50, 51.* prove, that Kings acting perversly against the Laws may be deposed, and some one of the Royal Race advanced by the Peers, and People. I will not now strive to weaken the Authority and Credit of the Author herein, nor the Truth of that Power, which the then Lords and Commons claimed against their King, neither will I alledge the many Changes and Statutes since, that seem to have abrogated the popular right of Abrogation; but suppose that this

this still is the Right of the Nation against their Kings, yet if the People should on false pretences and imputations abrogate their King, this Act could not be morally Just and Right, tho' it were in form legal; and if the Subjects, that are innocent, are not to admit what is thus externally Legal, except it be also altogether Rightful, then are they not bound to stand by any Popular Abrogations, which they know, or judge to be morally faulty, and consequently may oppose all new Titles, if they are founded in the real Right of such Abrogations. And to come close home to the Case, if *King James* were not really guilty of every one of those Enormities to a Title, upon which such Statute did legitimate the Abrogation, and the Convention had really abrogated their King without accurate conviction of all those guilts recited by that lost or undiscoverable Statute quoted by *Knyghton*, then had their Abrogation been a nullity, as not being Rightful. But further, if men shall object, that *Knyghtons* relation of a Statute, not seen by himself, but only said to be objected by the Peers and the Commons, is not a Record, nor a valid Testimony to any Civil Consequences, as being not upon Oath, liable to Error, and incapable of judicial forms of Discussion, besides its singularity, where shall we find a bottom to authorize *King James's* abrogation? For 'tis not enough to a Judicial Conviction, or effect or surmise, that *Richard* destroyed that Statute in the *Tower*, upon such a general crimination that he defaced Statutes, of which there is no particular form of Conviction extant, no not in *Knyghton*, who yet is the only Traditor of this Transaction; but you must bring us legal proof for what must legally concern us. And yet nothing else that Mr.

*John*

*Johnson* hath cited out of Law Books, nor *King John's* Charter in the *Pastoral Letter*, doth amount to a Popular Right of Abrogation, but only to a limited power of resisting Kings on their oppression of the Laws and Constitutions. So that whatsoever has in fact been done toward our several Changes, must not all be taken, or sworn to as Right, but the consequent Settlements, by National Acts must be taken for formally Legal for the time being, and submitted to under that Notion, leaving the real Right of the procedures to Gods judgment, because there is none other under Heaven to adjust it above the National Sanctions.

*Dyscher.* I did not interject the mention of *Mr. Johnson* to justify all his Principles, but only to alledge for our Cause those Right Concessions of our greatest Enemies, as more candid and clear from juggling than you, even in his greatest bitterness. I will now dismiss him, and produce you what a Friend of mine impartially reflected on this pretended Authority in the Judicial Opinions of Parliaments, viz. that you cannot but know, that this Power of Parliaments is absolutely denied by that Party, against whom you dispute; and we do not think it reasonable to be convinced without proof, viz. that what is thus done is agreeable to the Laws of England. MS. Reflect.

*Eucher.* If you are not inwardly convinced of the truth of their Judgment upon their Power, and of the lawfulness of their Constitution founded thereupon, I cannot help that. Neither is the Care of the State so much concerned to enforce such an inward conviction, tho' it is to perswade it, and to silence Contradictions. But, as I have often told you, Judicial Opinions must overbear all private ones to the contrary

trary as to all Civil Consequences. This the peace of mankind, the necessity of ending Controversies, and the fundamental Reasons of Government do universally require; so that you must assign some Superior Court, or Judge within the Kingdom to be determined by, if you will not stand to their Judgment, or expose all to private judgments; the first of which is impossible to be sworn, and the later impracticable in a Society. And to turn the dull point of this Objection on your self; the Parliament doth not think it reasonable to be determined by Private Judgments, especially those of the professed Enemies of their long-settled and immemorial Authority. And what if I oppose the general Trust of the Nation in Civils to the publick Judgment of our Parliaments, rather than the contrary Decisions of some private Zealots and Casuists, whose Senses are seldom uniform, often impracticable, and always inauthoritative? Will you here set your Private Judgments in battle array against the Authority and Judgment of the whole Nation, and the Publick Estates thereof? Or whether Opinion must concede in order to Publick Peace? So that here your imprudent Zeal on false Notions of Loyalty hurries you into Principles absolutely Seditious and Destructive to the Legal Constitution of all Governments, and particularly that, which the Kings of *England* have themselves established.

*Dyseber.* Well, to put an End to this Disquisition upon our own Laws, what have you to say for the Legality, or fulness of your Settlement from the Usages, or customary Practice of Nations?

*Fischer.*

*Eucher.* I hope you do not require me to corrade a vast heap of Historical Instances, National Decrees, and Determinations of Civilians hercupon. This would be to repeat whole Libraries to an evidence of one particular Custom. But your own reading will inform you, that under the pressing exigences of Anarchy and Ruin, the Superiors, or Agents of all People have ever authentically contracted a change of Government, and Governours, as to them then appeared necessary to the Common Preservation.

*Dyscher.* 'Tis so indeed upon Conquests, which some have pretended here to the shame, reproach, and forfeiture of their Country, as well as in contradiction to common Sense, the pretences of your King, and the Sense of your Parliament. But where there are no Conquests, 'tis not so easie to adduce such Custom of Nations.

*Eucher.* That the Nation was not conquered is most evident, yet that *King William* in the Military Course grew stronger than *King James*, who disbanded all his Forces, and stooped to the prevailing Prince, is as evident; nor was this any False Doctrine in the sense of the Nation. But to assert, that hereby alone the Right of the Crown accrued to *King William*, even without the consequent Admission and Contract of the Nation, had he pleased to have taken it on the meer Right of the Sword, is what is indeed contrary to all Law and Reason: For the meer force, or victory of the Sword gives no Right, or Authority even over a vanquished People, till they federally resign to the Conqueror, and then much less doth it so in a Nation not conquered. But to omit the Laws of pure Conquests, there are instances enough

enough of Abdications, Cessions, and Desertions (as many, I believe, and more than of simple and proper Victories) to set out the sense of all Nations by. For upon all such the places quitted admitted such consequent Settlements, as the straits, they were cast into, would permit, as is manifest in the leaving of Garrisons, Holds, or Countries. And the truth is, there is the same reason upon all proper Conquests, and other Surrendries, that legitimates the admission of a Change, *viz.* the necessity of preserving the Publick Body from ruins and devastations.

*Dyscher.* I do not remember indeed any instance to the contrary in the practices of Nations; for they perhaps have been, and are as bad as we, ready to for shift themselves upon any pinch, but generally careless of, and perfidious to their unfortunate Princes Interests. But what Reason can you shew for it in our Case, which is so very plain and obvious, that we were at liberty to have preserved our Sovereign, and our selves together, and if so, how can this Settlement be admitted for legal, or be reputed full against the so just Claims of our real Sovereign?

*Eucher.* Here again you transgress the proper limits of a private Judgment, when you take upon you to say, that we, (*i.e.* our Convention) could have secured *King James* in his Throne, and this Nation in its Rights, and Properties. But in the main point, where you stick, *viz.* the Consent of *King James*, and your *Prince of Wales*, you are very unreasonable. For shall he, who at last put all his Subjects into confusion by his leaving the Government, hinder us from settling, till he give us his Consent? Or must the Consent of a Infant be waited, who,

who, if he ever was, or yet is, is in the custody and disposal of an Enemy King, who would settle him, and us too with a witness, if he had but a lucky Wind, and a fair Opportunity? It is possible, that an offended Prince may meditate revenge on a People, that will not yield up all to the insatiable claims of boundless Prerogative. And Desertion would be the cheapest, surest, and severest way of revenge, if they must never settle again till he please to authorize them; and this truly would be the strangest of all Prerogatives. There are also that say, that *King James's* Priests counselled, and his Queen engaged him to go off, on this very account, that we might fall into such Plagues thro' our Divisions, and unsettled Looseness, as should enable him to return with an absolute plenitude of Arbitrary Power. But not to depend on uncertain fables with their oblique constructions, what can the legal language of that Cession speak to his Loyal People but this? I have disbanded my Army, and will not contest it with the Sword. I shift for my self, and must leave you to shift for your selves and settlement as you can. Since I yield to my fears and necessities, so may you. If even a Natural Parent, to save his own life, leaves his Son to the mercy of his Enemies. the Son may contract Peace, and subjection to that his Fathers Enemy for his own preservation, nor can the meer Natural Relation and Interest of the Father in the Son vacate moral Obligation of such Contract, till that power of his Enemy over his Son be otherwise legally dissolved by the Laws of War, Redemption, or otherwise. So that, tho' we should allow you, that all *King James's* Enemies sinned in procuring this new Settlement upon us all,  
yet



yet his most Loyal Subjects may most innocently submit, from the reason of the thing, and the virtual Concession hereunto in the voice of his Desertion, which must be supposed as made to his faithful Adherents, tho' not to his Enemies. So that should he ever return again, he could not in any justice punish the meer submission to this new Settlement in those, who contributed nothing to it. And you that refuse it, refuse that liberty, which his Desertion legally gave you by all Civil Interpretations. All which put together should be of great might with you to admit the present submission as Legal. Nor ought his resumed Contests to be taken as Legal; or just bars to the contrary. For if there were such a Virtual and Legal Concession in his Desertion, the Estates of his People, taking the benefit of it, have provided for us a Settlement upon that Concession, which being passed and confirmed, the supposed revocation of that Concession, by a new War, or Inauthoritative Declarations, is null, void and unobliging. And so here was, tho' not a Verbal, yet a Legal Consent of *King James*; which is as much as you your selves can in reason require to the justifying our present Submission, and to the plenitude of our present Settlement.

Dyscher. \* *These are* \* T. B's 2d Lett.  
*pretty tricks to catch Dot-* p. 21.

*terils.* But above all your most amazing pretence for your Cause is that, which you promise me from the

Scriptures. I pray out with that too, that I may either reply to it, or send it to the Censure of *Gilman's Coffee-House*, or the Impartial Reflections of a Private Friend.

*Eucher.* I cannot be sullen to you, to whose Felicity and sound Judgment I wish with all my Soul I could contribute. And you being men of Religion, that can dare to suffer for what you think right and sacred, will be like to have greater respect to good and clever Arguments from the Holy Oracles. We will therefore consider the several Settlements of the Children of *Israel* under Civil Forms of Government; and try whether their actual plenitude consisted in a National Contract, or any other bottom. And in order hereunto I shall observe two sorts of Settlements among them, one Consequent to an Antecedent Right and Title, the other constituent of the Title to, and in the Sovereignty. And according to this Order I begin with the former.

*First,* Then God, upon a good original and antecedent Title, actually settles himself in the political Royalty, and Government of that People, (hence by Divines usually called the Theocracy) by that Covenant at *Sinai*, by which he properly and peculiarly became their God and King also, and they his peculiar People, not only under a Religious and Ecclesiastical, but also a Civil Relation, *Exod.* 19. *Exod.* 24. & *alib. passim.* When God himself, and *Samuel* the Prophet in God's Name, had entitled *Saul* to the Throne of *Israel* by a fa-

cred Unction, yet was he afterwards actually, and fully settled therein by the Popular Engagement of true Allegiance to him, and was hence said to be made, and chosen King, as well by the People, as by God and *Samuel*, 1 *Sam. chap. 9. Chap. 10. Chap. 11. Chap. 12.* Thus tho' *David's* Title to that Succession was divinely originated in the Unction of *Samuel*, 1 *Sam. 16.* yet his full and actual Settlement over *Judah* consisting in his Unction by the People in *Hebron*, 2 *Sam. 2.* and after the death of *Ishbo-sheth* he was thro'ly and actually settled over the other Tribes by their Covenant and Unction transacted by their Elders, 2 *Sam. 5.* And *Solomon*, tho' designed by God, and advanced by *David*, and anointed by *Zadock* into the full Title unto that Sovereignty, was yet finally and compleatly settled in that Throne of the Lord by the consequent Acts and Unction of that People, as an Induction on an antecedent Presentation, and Institution, 1 *Kings 1. 1 Chron. Chap. 24. Chap. 25.* And thus to *Rehoboams* Paternal Title, the People were to add their Actual Consummation of his Settlement in like manner, 1 *King. 11. 2 Chron. 10.* And last of all *Jehu*, who by a Prophetick Unction, and Gods Designation had a Divine Right and Title to the Sovereignty of the Ten Tribes, and began to make way to his Actual Settlement by the slaughter of *Joram*, *Abaziah*, and *Jezabel*, yet sends to the Council at the Royal City *Samaria*, and bids them settle the best and meetest of their Masters Sons on the Throne of their

Father *Ahab*, as knowing that that had been the usual Office of the Senate. But they, not daring to oppose *Jehu*, tho' perhaps they knew nothing of his Prophetick Unction, reply, that they would not make any King, i. e. any but himself; but they contract a total submission to him, and sealed that Contract in the Blood of *Ahab's* Sons, and so actually admitted him into the full Settlement and Possession of that Sovereignty, 2 *Kings* Chap. 9. Chap. 10. So that tho' these Titles to the Sovereignty were not founded in the Grant of the People, but of God, yet the full Settlement of all these New Kings, consequent to their Titles, did consist in the Publick Contract and Recognition of the People.

Secondly, The Peoples Concurrence was sometimes constituent of a Title meerly human, as well as a full and formal Settlement:

Thus the People would have given *Gideon* an hereditary Monarchy, *Judges* 8. as the Elders of *Gilead* made *Jephthah* their Captain, *Judges* 11. and as the *Shechemites* did, what in them lay, entitle *Abimelech*, *Judges* 9. The Ten Tribes made *Jeroboam* King, which God, that had preingaged it by his Prophet, ratified by an inhibition against *Rehoboams* recovery, 2 *Kings* 12. 2 *Chron.* Chap. 10. Chap. 11. But *Zimri*, who reigned but seven days in *Tirzah*, without the full consent of the whole People, wanted a good Title, as well as a full Settlement thereupon, and so was opposed by the Camp at *Gibbethon*, who set up *Omri* against him, and so he perished in a Fire of his own

kind-

kindling, 1 Kings 16. And this was that perhaps which Jezabel objects to Jehu, 2 Kings 9. *Had Zimri peace, who slew his Master. Did the people permit him a full and peaceable Settlement in the Throne, who saw his own Sovereign?* Which Omri however obtained after the extinction of Tibni his Competitor, 1 Kings 16. 22, 23. Thus in the Kingdom of Judah, after Josiah's death, the People of the Land took Jehoahaz: (probably the younger Brother to Eliakim) and made him King, And in that Act of the People the fulness of his Title, as well as his Actual Settlement, seems to have consisted, 2 Kings 23. 2 Chron. 36. So that in short, the Regular Constitution of their Native Kings was, that subordinately to Gods Election the People should settle each New Line according to the direction of the Law, Deut. 17. 14, 15. *When thou shalt say, I will set a King over me, thou shalt in any wise set him King over thee, whom the Lord thy God shall choose, &c.* But in the degeneracy of the Ten Tribes they set up Kings by their own Act alone without waiting, or consulting the Will of God, as he complains, Osee 8. 4. *They have set up Kings, but not by me; they have made them Princes, but I knew it not.* Yet God's permission hereof made the usage valid to a Title meerly human, tho' done contrary to the Law. And therefore to Baasha, who came in this way, God says, 1 Kings 16. 2. *I have exalted thee out of the Dust, and made thee Prince over my People Israel.* Now these things in fact were done as well in in-

jury to the Heirs-Royal, as to God; and yet the full and actual Settlement by the People, according to their modes, gave them a form of human Title, which was civilly valid, tho' not, otherwise, and especially Sacred. And to conclude, since it is recorded, that God at first granted them Kings at their request after the manner of the Nations, 1 Sam. 8. it intimates, that this was then the Formal Rule of New Settlements, at least among all the bordering Nations. However this Office of the People, being always the final Act, must needs give the last plenitude to the Settlement; and God surely, in the admission of these Forms, must be granted to know, and judge them to be full, and final, whatsoever else was, or might be sometimes constituent of an antecedent Title, which the Convocation-Book does not make essentially ingredient to a full Settlement, or the Obligations to Allegiance founded thereupon. For if a Nations Settlement be not full under New Powers, till all the former lineal Heirs be Extinct, or cease making their claims from Forreign Dominions, I know not how many Ages may sometimes be necessary to fill the Settlement; and it will be very hard, if submission thereto, for want of such a ground of plenitude, should be Treason, and all Sanguinary Commotions against it Pious and Loyal, till the claim of all the Succeeding Heirs Lineal shall surcease for ever. Or if you will allow a term for Prescription against all after claims, then you must allow that a Settlement attaining to Prescription may exclude a Native

Right,

Right, or that a Native Right ceases by such a Tract of Continuance. If it excludes Right only, then you are no more to comport with it, than with present Settlements exclusive; if the Right ceases, I pray shew me by what equity mere time can destroy a right in me *Anno. 93.* which was whole and within Memory *Anno. 92.* especially since the Regestries of Lines Royal usually endure as just Records, that will out-live the longest ocular Testimonies, and personal Memories whatsoever? For the reason why Prescription passes Title is, when there is no Authentick Evidence, or memorial to the contrary. And I will further note, that the same Laws of Nations, which admit prescriptions as a form of Title, do not therefore assert the Title really right in the original means of procuring it, but only externally Legal for want of better Evidence; Prescription in it self being the weakest form of Title, that must give place to all others, if verified *in foro*; and its ground, or reason is only a supposed Composition Real, I say supposed only, not Asserted. And those very Laws of Nations do not always suppose those Compositions every way right, but only Legally Authoritative, and Settling, and do indeed allow such present Settlements within memory to be as Legal and Valid as those, which being out of record and beyond memory, can but be supposed Legal, and this with more reason, because men can better judge of what is present, than of what is past into a Tohu, an Age in which all things are forgotten.

*Dyscher.* You are very long, and I am almost tired, considering the Zeal that is in me.

*Eucher.*

*Eucher.* I have kept you so long under the Fatigue, because what I ever thought has lately appeared in your Prints, that the total ground of the Schism between us, lies in this point of Right. For you all say, that Allegiance follows a thorow Settlement, but a thorow Settlement is founded in the Right of him that Reigneth. So that if admit the wrong, then immediately all our Prayers for him are Immoral, Polluted; and Abominable, as containing Imprecations against the right and justice of him that is wronged, and giving God Praise for the Advancement of the Usurper, which we blasphemously attribute to God. Whence there follows a necessity, that all good Bishops, Priests, and People renounce Communion in these Liturgies, and with all that use them; and that, if hereupon they be deprived by the Usurpers of all the Publick Advantages of their Ministry, they must keep up holy Ministrations among themselves; for so the Rule is set, and agreed for with most prodigious Zeal, and no less Accuracy and Learning, by your admirable Author of Christian Communion. But I wonder this Great Man did not see, how Tottering and Casual the visible State of Religion then must be upon every turn of the secular State, and the various Competitions for the Sovereignty. For how is it possible that Godly Pastors, and their Flocks, can be all unanimously certain at all times where the real Right and Justice lies, when matters of Fact and Law are so remote from their Cognisance? Nor will your evasion of doubtful Cases, which you allow much to,

heal



heal the matter. For in all such cases some will assert an indubitable Right, others a dubitable one, and that on both sides at the same time: And thus your indubitable Men must fall into a state of Schism or Separation from each other, upon their contrariant confidences in the Right of the opposite Claimers: And your dubitable men must either be neuter to all Communion, or choose a Communion with one, or other of the indubitables at all adventure, which to do with a doubting mind is a Sin and Snare. And so it is in our present case. Some says, 'tis indubitable, that K. James is King *de jure*, and that K. William is not King at all; others say as indubitably, that K. James is not King at all, but K. William is King *de jure*; others own K. William to be King only *de facto*, and K. James *de jure*; others that are indubitably for his being *de facto*, doubt his being *de jure* King. And a great number through ignorance confide, or doubt, more, or less, in all these points, which they cannot reach. Now since Practice must follow Principles, and rules of Conscience, how shall we settle all these under one Religious Communion on that Authors Maxims? There is no possible way, but by following the direction of the Convocation Book in Obeying the thorow Settlement of the King *de facto*, made by publick Submission, or continuance, the form of which being a point of Law, not Religion, must be determined, and defined by the Supreme Domestic Judgment we have in Civils, which Certainly is that of Parliament, after whose Decisions we need no further Torment our selves in vain about Antecedent questions, but consider

the

the Right we have, as well as Duty, to Live quiet under Publick, Formal, and Judicial Settlements, which we are to take as Gods Ordinance for the time being. By which Rule we shall secure ourselves from both Extreame, either of owning forcible Entry for Legal Title, or proper Settlements, or of Asserting all Change of Government to be Invalid and unobliging, as Contrary to the Law of God, who, we know, changeth Times, and Seasons, and all the Kingdoms of the Earth, and Dissolves, and Resettles all the States of Men under proper Laws of Constitutions, according to the Just and Unsearchable Counsels of his Will. And now I will only apply your Rules of Communion to our Case, and so dismiss this Theoric. If this present Settlement be full, and the Judgment of the Nation herein against your Right, then all your Prayers and Execrations against the present State are Irreligious, Immoral, Polluted, and Abominable, and under an *ipso facto* Anathema, upon which all Christians must abhor your Communion, even without any Ecclesiastical Sentence, as being self-condemned, and cut off. And if all these Dangers and Snares await us upon every Civil Change, upon Mens Private Cross Opinions about Right, and Plenitude of Settlement; Christian Religion, Ecclesiastical Union could not have continued a Twelve-Month under the Changes of the Empire from Nero to Vespasian, but must have Expired, before it had been Exposed to the World. And I desire the Learned *Casuis*t to Suit his Principles, if he can, with the Conditions, and Capacities of Human Life, and after Good endeavours this

way

way he will find, that these Civil Questions are not of Private Determination. But if there be such Dreadful Dangers of Immoral Devotions on such Contested Rights of Government, they Naturally ly on them, who in Civil matters Oppose their Private Conceptions and Practices to Publick and Judicial Constitutions, which is a Course in its own Nature formally Seditious, and for that cause Un-Christian, and may too truly and sadly Corrupt their Communion, and Defile their Devotions, who will not know the ways of Peace.

Dyscher. *You will needs suppose, that if it be the Life of King James, then it is not the Breach of Gods Commandments, that Incapacitates the Prince of this Crown. But why may not both do it? For because the Lawful King is Living and Claiming, therefore the Commandments of God require of all his Subjects, that they Pay him their Dutiful and Loyal Obedience. They ought by all means to Support him in his Throne, or Restore him to it, as his Condition requires.* T. B. 2d. Let. p. 20.

Eucher. In the Murther of a Parent King by his Son and Heir \* I proved, that the sin did not Incapa- \* Sol. & Ab. p. 8. cite the Parricide, but that our Constitutions admit him to the Crown, which you not being able to deny, I conclude, that Breach of Gods Commandments Nulls not a Title procured thereby. And then you Assign the cause hereof, that the Parent, and all his Rights are Extinct by his Death, but King James's Life, and Contestation Diversifies his Case. Then I rejoyne, that it is not the Breach of Gods Com-

mandments,

mandments, that Incapacitates the Prince of this Crown, but the Life, and Contention of King *James*. And is not this an Accurate, and an undeniable Observation? For if Breach of Gods Commandments, either alone creates, or with other Causes concurs to a Civil Incapacity, then such Breach doth, either partially, or, solely, obstruct such capacity. And if so, the Murther of a Royal Father must be some Bar to the Succession of the Parricide: But if it be none at all in that Case, why should a less Sin against God Preclude a Title in another Case in Conjunction with another Cause, which yet your selves will not dare deny to be alone Enclusive of King *Williams* Title? Here then I will sit you upon this Point, Would the continued being, and Claim of King *James* Incapacitate King *William* of the Royal Title, if King *William* had never broken any Commandment of God, or No? If you say, Yea, then the Breach of Gods Commandments Contributes nothing to King *Williams* Incapacity, which alone ariseth by it self from the Life and Claim of King *James*, it being Naturally impossible for two Men to be Total and Separate Proprietors of the same Right at one time; a truth not at all belonging to Ethic's, or Divinity. If you say, No, then you yield, that King *William* may be Entitled to King *James*'s his Throne without breaking Gods Commandments, even during the permanency of King *James* his Life, and Right. And han't you hereby well amended the matter? But such are the results of affected Sophistries, especially when they are Impertinent also. Now that yours are so, will be hence Ma-

nifest;

nifest; For our Question last was whether no Settlements procured by Breach of Gods Commandments must be Submitted to, and particularly such, as follow the Extinction of the former Proprietors Tenure, and Title, through such ill means? And now you Answer me, that Gods Commandments do Incapacitate King *William* of King *James's* Crown, because King *James's* Title is not Extinct, but Lives with him. Which if it had been true, I should also have denied King *William* a capacity to the Title, not from the Moral Law, but from Natural and Legal Impossibility. And therefore I suppose King *James's* Tenure first Extinct, when

I say, \* *But if His Tenure* \* Sol. & Ab. p. 8.  
*be Extinct, as it hath been*

*Publicly judged by this Nation, our Oath to him Ceases, tho' he contend never so much for the Recovery.* And there I take it for necessary, [that the Judgment of the Nation must overballance all your contrary private Opinions as to all our publick Duties and Obligations. Now when your words are dissolved, they amount to no more than this, that the Law of God forbids one Man to seize on another Mans Permanent Right, and Title, in which as it is nothing to the Rhombus, so you have no adversary. But this is not your second, or single Failure, but here appears a third point of Ignorance, for our Question was not, what Gods Commandments do forbid, but whether the doing what God forbids, in order to the procuring formal Titles, and Tenures in Law, by the real, or Judicial Extinction of another Mans Tenures, does Create a Civil Incapacity or Nullity in the Tenure so ac-

quired \*

quired? This is what I deny, and I defie you to Prove. The instance of a Royal Heir upon the Murther of his Father is an unmovable Argument for me; for tho' the Laws of God forbid him to procure the Crown that way, yet if he violates those Duties, the Laws of God do not null the Tenure acquired by forbidden Wickedness. The Law of God forbad *David* to Usurp *Uriah's* wife, while the *Hittite's* Title in her continued with his Life, and the King might actually keep her, but by no Legal form of Tenure. The same Law of God forbad the King to Murther *Uriah* with the Sword of the Children of *Ammon* in order to a Matrimonial Tenure of his wife; Yet when that wickedness was compleated, the Title of the King in *Bathsheba* was Legal, and valid, even by the Judgment and Ratification of God himself. Nay, when *Ahab* had slain *Naboth* by Judicial Condemnation for falsely imputed Blasphemy, the form of Title, by which he after enjoyed *Naboths* Vineyard, was Legal by Judicial Forfeiture, tho' it were Morally unjust in the sight of God; for had there been a Civil Nullity therein, it had been necessary for him to have compassed *Naboths* Death by Capital Sentence in order to a Civil Title, which *Jezebel* procured for him this way, to avoid the Odium of open, and formal Un-entitled Usurpation. So that had your Loud Obloquies against their Majesties morals been never so true, Yet, King *James's* Tenure, being Extinct, doth not preclude a Civil Title in their present Majesties, which we are now to abide by, and defend by the greatest

Suffrage of Gods Laws, Reason, and the Laws of Nations; at which expression I have heard, that your Friend T. B.

winds up his Mouth, and \* thanks \* T. B's 2d. God be hath not so Learned Jesus Lett. p. 26.

Christ; And it is like to be true; for he seems to have Learn'd but little of him, at least in this Doctrine, Learn of me, for I am Meek, and Lowly of heart, and ye shall find rest to your Souls.

Dyscher. To the Objection, that Allegiance seemeth to imply Right, which is a Tender Point to be Sworn to, You answer, \* that \* Sol. & Ab. p. 9. the Oath expresses no form of Affirmation concerning Right. But what if it doth not, as long as it expresses what manifestly includes Right? And this Allegiance directly, and manifestly doth. For it is the proper duty of a Subject to his Lawful Sovereign, and contains an Obligation to the Performance of all those Acts, which are required from every Subject, as he stands Related to his Rightful Sovereign; It is the immediate Result of that Relation, So that where you deny your Allegiance due, you in consequence deny the Right of the Prince; where you Pay your Allegiance, it is as owning him to be your Prince. And therefore when you swear Allegiance, you Tacitly swear a Right. For tho' there is a sort of Obedience, or Observances which may be paid to Usurpers, Robbers, and Pirates, yet Allegiance may not be paid to them, as being the Natural duty of the Subject, which The Laws and Constitutions have Appropriated to their Legal Prince, and made Inseparable from him; And now I hope you will

not tell us, that the Oath doth not express Allegiance.  
T. B's. 2d. Let. p. 26.

*Eucher.* The giddy ramblings in your forms of expression Create in me a just suspicion of either your Ignorance, or Insincerity, or both. For First you Confound the Terms Lawful and Rightful as *Synonymous*, even thereby to equivocate. Secondly, *You say*, that Allegiance manifestly Includes Right; and yet that he that swears Allegiance, doth but Tacitly swear that Right, that is manifestly Included in Allegiance. But if we manifestly swear a manifest Allegiance, it is manifest that we manifestly (not Tacitly) swear all that is manifestly Included in it. But if we do Tacitly swear the Right, then is that Right but Tacitly Included, and perhaps so Tacitly, that the Swearers themselves do not perceive it. But as to the distinction between Lawful and Rightful;

\* Sol & Ab. p. 7.  
*The Actual Landlord who is visibly Legal tho' not Honestly Rightful.*

design to Ensnare.

I have but just now explained it at Large, and \* offered it to you in our first Conference; which makes your Neglect of its Observation so much the more Disingenuous, and Culpable, as proceeding from a

So again you Prevaricate when *You say*, *Where I deny Allegiance due, I in consequence deny the Right of the Prince.* For there may be two sorts of Right, immediate and mediate; the former without, the latter upon an intermediate and



qualifying Condition. Again, an immediate Right to a Crown to be enjoyed, must be distinguished from an immediate Right to Allegiance founded in the actual possession of the Crown. Now he, that hath a just immediate Right to a Crown not possessed, hath no immediate Right to my Allegiance; and no more at the most can be assigned him than this, that he, having a real Right to the unenjoyed Crown, hath a real, but mediate Right to the Allegiance on the condition of Possession, for want of which he cannot as yet claim the Allegiance of the Subject; for whatsoever material Right he has, the legal Title to Allegiance consists immediately in the legal State and Forms of Possession. Wherefore I do not deny alwaies a real Right to a Crown, where I deny my Allegiance legally and immediately due; for this denial of Allegiance so due, denies only a formal Title thereto, consisting in a legal actual Settlement in the Sovereignty; except I declare, that the Reason, why I deny a Prince Allegiance due, is, because he in my Judgment, has no just and real Right to the Crown he has; but then that Reason is my own private, not the publick Reason of the Law, or of legal denial of Allegiance due, which is the want of legal Settlement. So when you go on, and say, "where you pay your Allegiance, it is owning him to be your Prince; 'Tis true indeed, it is always owning him to be my Prince formally Legal, but not alwaies Morally and Honestly Rightful. So that it is not in your Sense alwaies true, that when we Swear Allegiance, we tacitly Swear a Right. But I doubt, here you forgot the dubitable Case of the *Lancastrian* Reigns, to which the Nation oft, and long Swore Allegiance, and to which you have given great allowances. But did they all Swear the

Lineal Right of that House to that Crown, which it enjoyed? Or was not such a Sense of the Oath perjurious? And if it be so, will you vouchsafe it your great and gracious allowances, and dispensations? You have need here of a new Rubbing-brush to cleanse your Senses, and clear up your Memory.

Dyscher. But for all this you are certain, no such thing [as Right] was intended [in the Oath.] For, say you, \* your Estates in Parliament rejected the Motions made for an Assertion of Right. And yet you immediately add, that they, and the ensuing

Parliament judged their admission of King William and Queen Mary, rebus sic stantibus, to be in their Lawful Right, yet they bound not us to Swear so. T. B. Sect. Lett. Pag. 26. What! if we are bound to Swear according to their Intention, and they, as appears by the Act of Recognition, intend, and declare them to be de Jure; and so have put the distinction of de facto, and de Jure out of doors? Which if it be so hard for you to apprehend, I will put it into this fair Syllogism; The Sense of the King and Parliament (the Imposers of the Oath) is, that King William is King de Jure; But we must take the Oath in the Sense of the Imposers; Ergo, we must take the Oath in this Sense, that King William is King de Jure. Do you think, that King William and Queen Mary did intend, that you should esteem them as a King and Queen, that had no Right? If not, then all are perjur'd, who Swear to them only as King and Queen de facto, (i. e. all, that acknowledge that Rule of Swearing according to the Intention of the Imposers.) For the Oath was chiefly made for the satisfaction of King William and Queen Mary; and they were the Supream, at least the

Par  
chief  
part,  
men  
Impos  
their  
the  
tioner  
you  
nothing  
a pur  
did  
any  
be, or  
that,  
were  
body  
have  
this  
may  
delivered  
Sec. L  
Enc  
talk of  
somer  
this I  
give y  
sider th  
liamen  
nizing  
ties, i  
\* I ackn  
(as we  
judge  
sic stan  
and Q

chief part of the Imposers; but if they were only a part, (as none deny them to be in an Act of Parliament) then their Sense is included in the Sense of the Imposers, and consequently we must take the Oath in their Sense, or not take it according to the Sense of the Imposers. M. S. Reflex. Or did your Conventioneers, or those that followed them, intend to bind you to any thing? If they intended to bind you to nothing, they laid their wise Heads together to such a purpose, as never yet any Men did. But if they did intend to bind you to your New Governours in anything, what can that reasonably be supposed to be, other than what they admitted them in? And that, you say, was in their Lawful Right. They were indeed ashamed at that time to put it into the body of the Oath; and besides, they knew it would have made many Persons abhor it; but it is plain, this they designed, and tricked upon you. Hence you may perceive, that your slippery Remark will not deliver you from the Intention of the Imposer. T. B. Sec. Lett. pag. 27.

Eucher. This Discourse is so involved, and you talk of an Imposer so like an Imposer, that it is somewhat difficult to trace out your Sense. Yet this I will endeavour, and if I can be lucky, I will give you my Sense of it. Here then we are to consider the Intentions, first, of the Constituting Parliament, or Convention; secondly, of the Recognizing Parliament; and thirdly, of their Majesties, in the Imposition of the Oath. First then, \* I acknowledged, that the Constituting (as well as ensuing) Parliament did judge it in their Lawful Right, rebus sic stantibus, to admit King William and Queen Mary. And so they always judge, that

\* Sol. & Ab. pag. 9.

that they for their part, act Lawfully and of Right, when they admit only a King *de facto*, either when unlawfully forced, or otherwise necessitated thereunto, by insuperable Exigencies. And so Men may Honestly for their part, contract faithful Obedience to their Piratick Masters to preserve themselves, tho' unlawfully brought into that Necessity. This being done by the first Parliament, and that in their Judgment on their part lawfully, and justly, they consider for an Oath of Allegiance, always usual upon such new Constitutions. And hereupon a Motion was made for an Assertion of Right to be inserted into the Oath, but it was rejected. This must therefore in legal construction evince, that their intention in the Enacted Oath, did not imply an Assertion of Right. For, tho' you can, according to the Temper you are of, opprobriously tax the Wisdom and Gravity of that Great Assembly, yet we are obliged only to an open and sincere Intention, not a tricked one, especially that, which you would trick upon them, and us too, that you might blacken and reproach our Innocency; tho' yet how we could be tricked out of our Senses, if Allegiance manifestly includes Right, as you say, I cannot divine. However, herein are two points of Right observable, one in their Majesties taking the Crown, and another, in the Convention, in the admission of them thereto. And in both these, they obliged us to Swear no Assertion,

but only, as \* I told you, *to promise that Allegiance due by our Laws to Kings thus actually admitted, without any other charge*

upon us to Swear the Justice and Rectitude of their Proceedings, of which there is no competent or superiour Judge, or Witness, but God. Secondly,  
After

\* Sol. & Ab.  
pag. 9.

Par  
Aft  
Parl  
jelti  
as v  
this  
Thi  
Parl  
reco  
by t  
Rec  
any  
stanc  
and  
Parl  
Righ  
and  
liam  
its R  
wife  
that  
in ta  
Subj  
gian  
here  
ons o  
thofe  
ject  
or po  
fo  
form  
exter  
inter  
grity  
Oath  
tions  
Cases

After the Constituting, comes the Recognizing Parliament, who added a Declaration of their Majesties Right, in taking and possessing the Crown, as well as of the Rectitude of *our* Admission; for this makes up the Title *de Jure* in their Majesties. This might be the mental intention of the first Parliament, but it was not by them promulgate, or recognized, which omission was therefore supplied by the second Parliament. But notwithstanding this Recognition of Right, they neither added, nor altered any thing as to the Oath, but that still stood, and yet stands in its first Intention, which it received wholly and solely from the first Parliament. So that the first Parliament discharging us from an Assertion of Right, in their and their Majesties Proceedings and Settlement in that Oath, and the second Parliament doing nothing to the Oath, it does not by its Recognition charge us to Swear more, or otherwise than the first had done. So that all the Right, that can fairly be supposed, owned, and imported, in taking and imposing that Oath, is, that private Subjects have a Right to Swear, and pay that Allegiance, which the Estates have thus fixed: And here also we must distinguish between the Intentions of Judgments, and Acts of Parliaments in all those Parts, Points, and Articles, which the Subject Swears nothing to, and those particular words, or points, which are directly set in the Oath, and so proposed to common Observation. For the former only oblige the Conscience of the Subject to exteriour and civil Duties, without involving any interiour Censure, or Sense, upon the Moral Integrity, and Conscience of our Masters. But an Oath, asserting the Moral Justice of Humane Intentions, or Procedures, is a dangerous snare in all Cases above a Man's understanding, liable to de-

I 3

bate,

bate, doubt, or question, as all publick Politicks generally are, especially with the Vulgar. And if a Man may be allowed with Modesty to guess at the Piety of his Superiours, it seems it is such a snare, as the Parliament never intended to lay for themselves, and therefore not for us, for whom they must have began the Example. For 'tis rational to believe, that most of the Members, that really were of, and for the Opinion *de Jure*, as well on their Majesties Measures, as their own in this Settlement, would not willingly have Sworn that Right absolutely, tho' they would have Sworn their belief of it. For Matters of Fact, of which alone, we can be certainly conscious, either by our outer, or inner Senses, are the only proper Matter of Assertions, and especially legal Depositions. But Points of Law and Right, concerning Matters of Fact, are more remote from that evidence and clearness of Sense and Perception, than to be given upon Oath; and are delivered by Courts as Judicial Opinions only, that pass into a Civil Effect, tho' the Judges (if put to it) would not always (nor any time willingly) Swear the Infallibility of such Judgments, especially the doubtful, or dissenting Judges, against their own private and personal apprehensions. Thus then in Parliament the Matters of Fact appeared evident enough to the Houses; but the Points of Law, arising upon the Facts, underwent much and long discussion, upon which at last the Judgment for Abdication, and an actual vacancy passed; so that in their Opinion they for their part, might in that State of Affairs, proceed to this Settlement, and upon these Opinions they acted, as taking them for True, Legal, and Right. Yet, considering that most of both Houses were not Lawyers, it is not imaginable, that

that they could willingly have Sworn the certain and absolute Rectitude of these Opinions, especially they, who were of contrary Sentiments, but over-ruled by the majority. And hence the Assertion of Right was rejected from the Oath. And I wish all Projectors of Oaths in points of Law, Title, and matters without our reach or power, would follow, and reverence the Exemplary Wisdom, and Tenderneſs of our Parliaments herein, that no tricks, nor traps may be laid for Conſciences in a State, and Age, in which we have given them ſo profuſe a liberty. But to return from this Progreſſion; the alteration from the old, or laſt Form, made in this Oath by the deſigned omiſſion of aſſerted Right, argues an intentional diſcharge of that difficulty, or doubt, in this preſent Oath, which has nothing in it : eſtimonially affirmative of other Mens Morals, but only promiſſory of each Man's legal Subjection, which implies no poſitive Aſſent to the Moral Juſtice of the Conſtitution. For Allegiance is not only perſonal, but local alſo, due in great meaſure, as well from Foreign Sojourners, as from Natives, and what may be as well required upon Oath of Strangers during there abode here, who yet however, are not engaged to maintain the real Rectitude of our Eſtabliſhments. And tho' a Native Allegiance be a cloſer, and more perpetual Tie to ſeveral eſpecial Offices and Duties, yet while the Form of its Engagement is purely promiſſory, it obliges us to look back to no further than Originals, than the legal Forms of actual Settlement, and Recognition. So Sheriffs by their Oath, are obliged to Execute Royal and Judicial Orders and Decrees of State, and Courts in legal forms directed to them, yet do they not Swear the Rectitude of all ſuch Mandates, or Judgments, (which they

Swear to Execute) tho' dec'ared right by the Superiour Authorities. So a Tenant, Swearing Homage and Fealty to a new Landlord obtaining by Law, doth not assert the reality of his Right, tho' the Jury in Verdict Swear it to be his in their Judgment, and the Judges give Judgment accordingly upon sworn Engagements to Justice. For the Tenant may justly suspect the Errors or Injustice of the Process, even while he Swears the Fealty, because his Oath is not concerned in, or depends on the Original Merits of the Cause, but the legal Forms of Judicial Assignment. But if you will take Rightful and Lawful, for meer Civil and Regular Forms of Introduction, I will grant you, that an Oath of Native Allegiance, imports an acknowledgment of such a kind of Rightful and Lawful Settlement, and Form of Title. To conclude this Discourse, since Intentions do not explain the words they utter, but words intentions; especially in obliging and legal Formularies of Contracts, we are obliged to no more by them, than their express words do openly propose to our apprehensions, and so pass all Judgments in Law, upon Pleas of Contract, according to this Rule of expounding Words, Oral, or Written, in Bargains, Testimonies, and Covenants. If then a Recognition, or Assertion of Right, be not expressly tendred in the very words of the Oath, or jointly with it, by some determinate Rule of Explication, we are not concluded in such Oath, to such an Assertion, much less, if such Assertion be openly excluded from the Oath, to prevent suspicion. But let us see, whether the Assertion of Right, so manifestly precluded, be yet tricked into the Oath by any surreptitious Implication: Now if it be so, it must be involved, either in the Stile of King and Queen, or in the

Terms



Terms of Faith and Allegiance ; but neither can be justly pleaded, since the known Judicial distinction of Kings *de facto*, and *de jure*, shews the Title to be in common given both to those, who come in without any violation of our Laws, and so are in Right, and to others, who have injuriously got, without any antecedent legal Capacity, into the legal Forms of Settlement, and so are in Fact only Kings. And true Faith and Allegiance, is by our Laws always given in the same, or like promissory Forms of Oath to the meer Kings in Fact, as well as others : But this is not all ; I will further *ex abundanti* shew you, that this closeness to the meer Sense of express words, is the interpretative Rule of obligation in Oaths, and Contracts, not only by the Laws and Reason of Mankind in common, but is particularly justified by precedents in the Divine History on the sacred Judgment of God's own People. The Case I refer to, is mentioned, *Judges 21*. There the *Israelites* in *Mizpeth* make this Oath, *There is not any of us shall give his Daughter unto Benjamin to wife*. Here by the word *Us*, they intend all the People beside the *Benjamites*, as presuming all the rest engaged there against *Benjamin*, and really intending that *Benjamin* henceforth, should never have one Wife from among the rest of *Israel*. After this, it appeared, that the Men of *Jabesh Gilead*, had not concurred in that Expedition, and therefore they destroyed all the *Jabeshites*, except the Virgins, and these they gave for Wives, to *Benjamin* contrary to their real Intention in the making that Oath. Now what shall be said hereupon ? Did they violate the Oath of God, or take upon them in their *Sanhedrin*, to dispense with it on a reserved Right of the Imposers ? No, there was yet no Popenry,

pery, nor such dispensing Power under that Pontificate. For it appears by their Care in a second instance, that they were very tenderly sensible of their indissoluble obligation by the Oath, nor does the Scripture Censure them for any such prevarication. How shall we then untie this Knot? Thus, whereas they had sworn *None of us*, it was literally interpretable to a valid Obligation on those only, (and their Daughters) who were actually present, or engaged in that War; so that the *Jabesites*, tho' at first comprised in the general design and intention, on presumption of their Concurrence, yet in fact not being engaged, were easily judged not actually included in the Oath, as not really being within the express term of the *Us in Mizpib*. Moreover the *Jabesites* did not give their own Daughters, as being all before them, but the Elders gave them; and herein they, that gave them, gave not their own particular Daughters; and they were given, tho' not as the Daughters of mere Heathens, yet as Daughters of Men aliened by the publick Anathema and excommunication from God's People, and so not of the *Us* collectively taken for the united Community or Society of the Children of *Israel*. Thus not all intentions had in the conception of this Oath did oblige, but only what the Words thereof did expressly include. Again, when this Expedient was found insufficient for the surviving *Benjamites*, a further Consultation arises in the *Sanhedrin*, how to furnish them with Wives consistently with their Oath. And at length they find this lawful Evasion from, and contrary to their first intention. They direct the *Benjamites* to surprize their Daughters in the Dances of *Shiloh*, and promise to pacifie the Parents and Kindred of the surprized Damosels. And herein they judged themselves free from Perjury, because  
the

the natural Parents did not give their respective Daughters, nor did the *Sanbedrin* manually deliver them as the Daughters of the People, but only contriv'd, directed, consented to, and after confirmed the Surprize. Which shews, that in the sense of that sacred Court, Oaths do not tie the Conscience beyond the necessary Sense of the Words, tho' more be actually intended by the Persons instituting, and taking the Oath in their first Conception. And then the Rule holds much more clear, when the Swearer intends no more than the words simply signifie, and is directed by the very Imposers to use that freedom, and discharged from all other collateral, or consequential Constructions as we are by the rejection of the Proposals for an Assertion of Right. But I preface, that all this procedure of the *Sanbedrin*, or my Accounts of it, will pass with you for pretty juggling, who are so dextrous and hardy to reproach whole Nations, as if you had been another *Elias*; tho' herein I would advise you to premit your Reasons to your Censure. In the Interim we will in the third place ascend to their Majesties intention herein. Of which I shall in general say, that no Man can evince, that they intended any more in their imposition of the Oath than the Estates; but if they did, those personal intentions came not into the Act, or Oath, and so can be of no publick cognizance, or obligation, the Oath being made to satisfy their Majesties intentions indeed, as far as they were uniform with the intention of the Estates, but no further, or otherwise. And the Estates did indeed desire to satisfy their Majesties as far as justly they could without crucifying the Conscience of the Subject which could contribute nothing to the interest of their Majesties, nor to the Honour of their Tendernefs and Clemency. So that the Question properly

perly is, whether the joint and complex intention of their Majesties, and the Parliament in the Oath was, *That we should judge them to be a King and Queen that had no Right?* And here I answer, that they never intended, that we should deny the Right of their Title in Thought, Word, or Deed. Nay, I add, that in the Recognition they designed to create an Opinion, and Belief in us of their Majesties Right, as far as the publick Judgment of a Nation can morally conduce thereunto; and also to silence all Tongues, and Pens to the contrary; but of what they gently willed Men to believe, they did not presume to require a peremptory Oath, thro' their excessive Tendernefs for liberty of Conscience. Now the intention we are upon, by the good leave of the Syllogism, is not the inclining will to perswade us to a Belief, nor the authoritative will of silencing contradictions, but that will which imposes the Oath, *i. e.* what they willed, and intended peremptorily to be sworn? And this does not import so much as an assent, or Belief, much less an absolute assertion *de Jure*, tho' King *William* is *de Jure* in the publick Judgment of the Nation. And what ground have you to fancy that this is not satisfactory to their Majesties? Their Right is publicly recognized, a full Allegiance of the Subject upon Oath given, with sufficient Laws for the Coercion of Recusants, and all that is necessary to secure them in the Throne; and can you dare to say, they are not hereby satisfied, because every Man is not bound to swear the *Jus*, which many feeble Senses may not understand? I hope you never heard of any Complaint made hereupon by their Majesties, and if not, 'tis a bold and indecent Suggestion to object, or surmise it; but the most frontless rudeness of all is, to say, that the Nation was I ricked, and open Nonsense to assert this of

of a project of concealing an intention of Right, in words, which you say manifestly include it.

*Dyscher.* No doubt both Parliaments had the same intention; and the Recognition was but a fuller Declaration of the Sense of the former Parliament in the Constitution. And for such Bodies to ensnare us to a Belief of K. *William's* Right, while we are taking Oaths to him, is, if not to command, yet to insinuate Perjury; since they, that are hereby tricked into that Opinion, intend the assertion of it in the Oath; and the Opinion of Right being the Publick Doctrine, the publick taking of the Oath, without an express Denial of the Right, doth either really, or seemingly, at least import an Assertion of Right, and so gives a just Scandal to all Men of Integrity, as looking like an Exemplary consent to, and Profession of the Right, and is as Exemplary a Snare to the Consciences of the Ignorant.

\* *For has not William ravished away* \* *T. B. Sec. the Rights of all the Royal Heirs in Be-* Lett. p. 22.  
*ing?* Has he not violated the standing Laws of our Succession in seizing the Crown before his time?

*Eucher.* To humour you for once, let us suppose, that K. *William* and Q. *Mary* had violated the Laws of Succession, and so were not every way *de Jure* Sovereign; yet the Assertion of Right being rejected at the framing of the Oath, a little Care will remove all prejudices in our selves, and others, by observing that we swear no more than was expressly imposed in the form of the Oath, with an explicit exclusion of that Assertion of Right; and that other points, and Acts consequent fall not under our intention; by the will of the imposers against their Will. But 'tis  
in

in truth a bold thing, but like you, to take it for evident, that their Majesties have broken the Law of Succession, when the whole Kingdom hath judicially determined otherwise. 'Tis indeed possible for a publick Opinion to be Erroneous, and a private one on the contrary true; yet nothing but an undeniable (as it were Meridian) Evidence must practically confront a publick Opinion against its Civil efficacy, which I suppose you have not gotten against the Civil Judgment *de Jure*. I will not here proceed on such Originals of Royal Title, as will justify Changes of Kings every day; I will not cast in my Lot, nor mix my Counsels with those seditious Men, who by cajoling the Subjects into false Notions and aims of Power, cokes them thereby into endless Ruins and Commotions. I will only follow the good, Ancient, and constant Rules of Order, Peace and Righteousness, which alone can make us an happy People, and Advocate for their Majesties Innocency toward these. The ordinary Rule of Succession I still grant you to be Lineal, or properly Hereditary; so that if a Prince's Tenure be extinct by Death, or otherwise, the next Heir of ordinary Course should succeed. But if a Question arise upon the Tenure, whether permanent, or cessant in a state of Anarchy and actual vacancy in the Throne, or who is the next Heir, this is most properly determinable by the Estates of the Kingdom, as being our Masters and Trustees, to oblige, and direct our Allegiance. Here then they judged King *James's* Tenure cessant by a virtual Abdication, and the Prince of *Orange* the next Heir. But considering the then state of Affairs, they judged it absolutely lawful and necessary for the time being, with the smooth concession of the two next Heirs apparent, to invest the Order during the Prince's Life. It was therefore

fore c  
Chan  
true  
the se

Dy  
make  
Princ  
Law,  
vereig  
our L

En  
of En  
no vic  
which  
taint  
with t  
he is n  
that E  
our L  
they v  
theref  
the L  
ticular  
consti  
all thi  
the ti  
to the  
Conse  
guish  
legall  
of the  
for C  
salage  
Arbitr

fore changed but not violated, and a temporary Change in the Course was admitted to secure the true Descent in a just Line for ever, as appears by the settled and determined Series of Successors.

*Dyscher.* Very well; I see you and your Estates make nothing of the Prince of *Wales*. But your Prince of *Orange* had before not only assaulted our Law, but overturned the Government, and the Sovereign too; and can you say, that he violated not our Laws in his way to the Crown?

*Eucher.* The Prince of *Orange* being no Subject of *England*, the process of his Expedition was in him no violation of Duty by him owing to our Laws, which is the only form of Guilt that could have attained his Right. If then he cannot be charged with the breach of Civil Duties incumbent on him, he is not incapacitated of Rights by any passages in that Expedition. But moreover he came to preserve our Laws and Forms, Liberties, and Religion, when they were all in a fervent Course of subversion. And therefore, tho' during his Marches, the Execution of the Laws for the time being was interrupted in particular Cases, and Military Officers were by him constituted in the Countries, thro' which he passed, all this was necessary, as methods of Medicine for the time to recover the diseased state of the Patient, to the Antient vigour of its Laws, and soundness of Constitution. But when King *James* left the languishing Nation unhealed, the Prince left all to be legally Cured, and firmly settled to the great Council of the Land; that so no Man might have a Colour for Complaint; that he affected our Conquest, Vassalage, or Suppression in our Civil Rights by any Arbitrary Power. For which great Service they found

found out a fair way, without Violence to any ones Right, to gratify, and honour him with the Crown, or rather to secure all we had by such a Constitution. If then the Prince of *Orange* was no Subject, nor Enemy to the Nation, but Friend, and Patron to us, and our Laws, how can he be charged with an injurious violation of them? And her present Majesty, tho' more obliged to her Husband than her Father by the ties of Nature, being a Native of *England* (and so the King's Subject in this Land) never appeared here to disturb her Father, or break her Native Allegiance. But when her Father had fled out of the Kingdom from before her Husband, as not daring to abide a Parliamentary discussion of their Causes, and the Estates of the Nation determined to settle her Highness with her Husband in this Sovereignty, she, being thereupon sent to, comes over, and accepts that Settlement, which the Nation thought so just and necessary, and to which (as such) the Princess *Ann* conceded without any Remonstrance. So that neither can her present Majesty, be charged with any breach of our Constitutions herein, which might obstruct her Civil Title of being *Queen de Jure*, upon the Cession of her Father, and her next Place in the Succession. Which is I think so fair a Plea for the Recognition *de Jure*, that if it cannot annihilate all prejudices to the contrary in all Persons, yet is a just Reason to inhibit Contradictions in private Men, who have very little Authority to Censure Publick Counsels and Determinations. But tho' we have thus defended the Title *de Jure*, yet, as I said before, we were not obliged to Swear it. Nor did I ever hear of any Courts, that loaded the Oath with such an Assertion of Right, when their directive Judgments were required thereupon.

*Dyscher.*



*Dyscher.* This last is a lucky Hit. I am glad you have awakened my Memory of some of your former Passages upon Interpretations of Courts, for which you ought to be a little chastised. For you say, \* *That if they took not the Oath as the Parliament intended, they took it as directed by their Majesties Judges.* What? did their Majesties Judges direct the Oath to be taken otherwise than as the Parliament intended? I desire that may be made out. Did they do it judicially in Court? I think that will not be so much as pretended. If it be, I desire to know when, where, and how. If you say, that a Judge did only discourse it privately, that is no more than if any private Man had said so. But to take off the pretence of this *Salvo*, the Judges are not, nor do pretend to be the Imposers. And the Imposers (King William and Queen Mary, and both Houses of Parliament) have declared what their Sense of the Oath is, viz. that King William and Queen Mary, are King and Queen de Jure. *M. S. Reflex.*

*Eucher.* This is no fairer in one respect, than it is convincing in any. For you repeat me, as if I had asserted some general Sense of the Judges, given to the Nation, plainly contrary to the Sense of the Parliament, according to which Judicial contrary Sense, all Conformists had Sworn; and so require me to make this out. But my Senses are not so easy to be imposed on in my own Sentiments. My Discourse therefore, was \* of the Senses of some particular Courts, given, or admitted to particular Persons upon occasional Con-

\* Sol. & Ab.  
pag. 10.

\* Sol. & Ab.  
pag. 9, 10.

K

sultations.

sultations. And I alledge that these Persons, who were allowed an innocent Sense to Swear to, did not prevaricate with the State, tho' the Courts perhaps had really misinterpreted the Law. But so far am I from the positive Charge of any Court herewith, that I profess, I neither know, nor believe any Court to have incurred such a Failure, tho' this I have heard some of them burthened with, by some of your greatest Worshies. And upon supposition of Truth in that imputation, I yet assumed the Cause of the Swearers, notwithstanding such supposed Error in such Courts, according to whose Interpretation of the Oath if they Swore, they could not be perjured, or prevaricate. For tho' the Judges of those Courts, be not the Legislative, yet are they Ministerial, and Executive Imposers, Judges, and Interpreters for the Legislative, to particular Persons, on all emergent Questions in Law; and what they herein do is valid to all Civil Constructions, and Effects, and to be taken as their Majesties own legal determinations, of whom you too unwarily, as well as untruly, say, that they and the Parliament have declared the Assertion, or *sensé de Jure* to be in the Oath; for tho' that be the recognized Sense of their Title, yet it is not their declared Sense of the Oath. Which being cleared, I need no Succour from the private Opinions of any Judges out of Court, of which I made no mention; which can indeed have no judicial obligations; tho' by your Favour they may be of great weight to the satisfaction, or Ease of a doubting Conscience towards its Conformity with the Laws.

*Dyscher. Indeed if the real Sense of the Imposer could be avoided, and what Sense others please, imposed,*

posed, the Oath might be taken in a thousand several Senses, and not one come up with the Sense, and design of the Imposers, which in this Case always is the security of the Government. Besides a thousand other Mischiefs would follow vacating all Oaths, and destructive to all Governments, and Human Society. For if Oaths may be thus eluded, Promises and Contracts would soon follow their Fortune, as being less Sacred. Now Sir, you would do well to answer these, and the like Reasons, before you so peremptorily assert any inferiour Courts to be the Authentick Interpreters of Publick Oaths. You had best have a care that you be not followed with a Cry of Priviledge of Parliament. And indeed that Legislative power is little better than Ridiculous, which may be authentically evaded, and be made quite another thing by the inferiour Ministers of it. And after all, the Interpretations of those Courts will not excuse you from insincerity, and prevaricating with the State, as you seem to fear. For if those Courts did give a lower, and more easie Sense than could reasonably be thought was intended by the Imposers, you ought not to catch at that for an Advantage, which they had no power to give. Nor ought you to join with them in eluding the Oath, but to take care of your selves, that they neither cosen you, nor you others. For an Oath ought to be taken in Judgment, Truth, and Righteousness, in all which points you will fail, if you take this Course. T. B. Sec. Lett. pag. 27.

*Eucher.* One would think by this clamour, that I had laid Gun powder for the ruin of the whole World, to which however I dare appeal for my Innocency. First then, if the Sense of the Imposer be in all Cases incapable of ambiguity with even the meanest, or unskilled People, then I confess my

self on the wrong side of the Hedge. But you were best have a care of asserting this, lest you draw upon you the general Cry of *Westminster-Hall*. If then some words in any enacted Formulary happen to become ambiguous to particular private Subjects, which are clear enough in themselves, to Men of Judgment in such matters, must the inferiour Court, where these Forms are administred, resolve the Sense of the Law upon Questions therein moved, or no? If not, they are no Court of Justice to direct the Subject in his Civil Duties, Rights or Obligations. If it must determine such Questions, then that resolution must pass for Law to all Civil Effects upon that particular Case, 'till reversed. But whereas all Courts are subject to a possibility of Error, especially where the Case is rare, or intricate, or the Courts through haste or heedlessness, take not the matter into sufficient Consideration, if such mistake judicially pass, yet is it formally valid in Law. But such Cases rarely happen, and the ambiguities of formed Words in short Oaths, Contracts, or Declarations cannot be many, or manifold, except we fancy them made on purpose to puzzle our Faculties, and Consciences both together. And now I would fain have you produce any such short Oath liable to your thousand wrong Senses. In our Oath the only Question is, what it is to bear true Faith and Allegiance? This Courts generally interpret faithful performance of all those Duties, which the Laws of our Subject-ion require to our actual Sovereigns, the particulars of which are determined by our Common, and Statute Laws. Now to exercise your Skill, I pray make a brisk Essay of fixing one half thousand Senses of these words alien from this Explication, which has been given by several Courts. Or if your Courage lowers herein, I pray shew this very interpretation

ration

ration to be either insidious, or erroneous. But whereas you think the Errors of Inferiour Courts may vacate all Contracts, and Authorities; I had provided an *Atlas* to support them against this Ruin, had you thought it considerable, when I offer'd you this Maxim, \* that \* *Sol. & Ab* in such emergent Cases, *What such* pag. 19. *particular Courts determin, must be taken for Law 'till condemned by a Superiour Court, or null'd by the Legislative, which will secure our Law-givers from the Ridicule, and leave that Character to its own Proprietors.* As dismal a Speculation is that, which you raise about Courts, and Swearers Clubbing together to elude the Oath, which amounts to this importance, *viz.* If a Knave ask a whole Court of Knaves, to play the Knave, in interpreting the Oath, and the authoriz'd Knaves have no more Wit, nor Honesty but to do so, then the suborning or Consulting Knave, finding their Judicial Knavery, must be converted to Honest of a sudden, and take no advantage of their Knavery, but tell them they are arrant Knaves, ay, that they are. For such I dare swear is the Judicial Interpretation of your Mystery. But a plain unintriguing Head would have thought, that I had spoken of Honest Men of tender Conscience, consulting the Sense of Courts, from the just Information and Direction thereof, upon their doubts concerning the intention of the Oath. And as such a Man would use no Arts to Corrupt a Court, so could he not easily conceive their Opinion fallacious. And after all, if he judg'd it good, he would approve it, if naught, reject it; if probable, accept it as legal: But if a Man knew the Sense before, he had no need to try, or tempt the Judgment of a Court, nor ought he to follow it into Immorality, if he knows it false. And

I surely never told you, that a Man, conscious of Errour, or Prevarication in a Court, might have an Advantage to elude, but in doubtful Senses to follow that, which the Court has given to honest and

innocent purposes. And all my \* Discourse ran upon the supposed tenderness and innocency of the Swearers in such Consultations. Next I took care also for the Innocency and Reputation of \* the Courts too, against all Calumnies upon their Judgments in such Cases given. And yet all this was purposely over-look't by you, that so you might revile the innocent tenderness of Men, and Courts, with the imputations of Fraud and Villany. And yet after all this Rant, you your self seem to grant, that Men might admit a probable Interpretation, when you say, *If the Court give a lower and more easie Sense of the Oaths, than could reasonably be thought was intended by the Impos-*

\* Sol. & Ab pag. pag. 9, 10. *Several Courts have given, and admitted such Senses, as the most tender Recusant might have sworn to. What prevarication is there in these tender Consciences, that Religiously took care to have an innocent Sense authoritatively admitted, on which and no others they would take the Oath? If these Men had made reservations in the Oath they took, Insincerity might have been justly chargeable on them. If their Majesties by their Courts declared their Sense, in passing the Act, in favour to all innocent and tender Consciences, I hope it was no insincerity to accept that lenity and Ease.*

\* Ibid. *Whether Courts prevaricate in their judgments, or no, private Persons cannot judge to any Civil effect, or Obligation.*

*sers, you ought not to catch at that for an Advantage. So then what Interpretation the Swearer thinks reasonably given, he may Swear to, if the Subject matter of the Oath so interpreted to him, seem lawful. Nay, if a Man doubts the exactness of an Interpretation, may he not tell the Court his sus-*

picion

picion of their Error, but let them know that since their Opinion is authentick, and the Oath which they accept for their Majesties, under that Interpretation, contracts no Evil, he thereupon takes in their Sense, as judicially Legal and no other? This I think is no Cozening of the State in the Swearer, but a fair sincerity before God, and the World, and answerable at any Tribunal whatsoever. Have you any thing more to say upon this Point?

*Dyscher.* My Friend *T. B.* suggested no more matter of Arguments to me hereupon; but only huffed and laid about him, what that innocent Sense might be, and the double boil'd Crambe of Swearing to Usurpers to maintain their Usurpations, that while you make such a Pother about Senses, your Conscience lies snarling within, as he does without, when he scorns your Pity, and stiles you *meek Forswearers, meek Rebels, meek Traitors, meek Turks, meek Jews, meek Renegadoes*, and taxes your Mercilefs High-Priest for want of Bowels to a poor Boy, whom, it seems, some of his Party had imployed in carrying Seditious Libels. I will not tell you the manner of his Fury, but it so startled me, that I thought verily I must have sent for the Doctor. *Ser. J. B. Sec. Lett. pag. 27, 28.*

*Eucher.* But what say you to the danger of the Law, even when King *James* returns, if you treasonably break your Allegiance to King *William*?

*Dyscher.* In this I find you are a Man tam Marti, quam Mercurio, otherwise called an Ambodexter. For if you cannot persuade us, you will affright us into the Oath, or any thing else. For

you endeavour to possess us with an Opinion, that King James (if ever he returns) will hang all them that do not swear and pay Allegiance to William. An hard Case, that a Man can't be Wise and Honest without Hanging! But why this extreme Severity? Why? Because the Lineal Heir may hang a Man as a Traitor for breach of Allegiance to an extralineal King. Well but if King James should hang up all that did not pay Allegiance to William, one would think he should not spare those, who would not pay Allegiance to himself, and this would make clear Work. When Edward the Fourth first joined Battle against Henry the Sixth, did not you think this would have made a powerful Speech for him to his Souldiers; Gentlemen, go on courageously, your Cause is good, the Crown is evidently my Right; and if I can recover it by your assistance, I will certainly hang you up every Man for fighting against the extralineal King, Henry Sixth, who here appears in the Field against us, and keeps me from it?— Sir I do not believe there is any Law to hang a Man for Loyalty, and of all Men living I least fear it from King James. T. B. Sec. Lett. pag. 30. And I appeal to your self, whether you can believe that Interpretation you put upon our Laws, \* viz. That King James may Hang Men as Traitors for breaking their Allegiance to King William? This is the same, as if King Charles the Second should have Hanged Men as Traitors to the Common-Wealth of England, who restored him to his Crown. M. S. Reflex. But in Truth, all this Hanging stuff seems to have another Design, not to tell what K. James may do, but what you would have others to do, as if they were excusable for any severity towards those, who deny them that, for which even

\* Sol. & Ab.  
pag. 12.

put upon our Laws, \* viz. That King James may Hang Men as Traitors for breaking their Allegiance to King Wil-



even King James himself may punish them. It is a pious hint to your Government, and your Mob. T. B. Sec. Lett. pag. 30.

*Eucher.* I was willing to have saved you, if it had been possible, out of Error, that so I might have kept you out of Danger. But if there be no such Danger, I am very glad of it. What King James will do I am no Arbiter, nor did I ever assume upon me to discover his Intentions. I only minded you what by our Laws he may do, if you are guilty of Treason against Allegiance required by our Laws to the present Sovereign. But you, according to the sincerity of a Zealot, repeat me to have said, that King James may hang you for not taking the present Oath, that I may stir up the Powers, and Mobb to do so presently. But I thank God for your sake, that tho' the Laws are severe upon unhappy Clergy-Men, that cannot conform to the Oath, yet such Recusancy does not by any Law make Men Traitors, as not being made Treason. If you live otherwise quietly, and contrive no Seditions, neither I, nor the Laws can touch your Lives, either now, or hereafter in any Revolution. But if you will incur Treason against extralineal Kings, the Law since Henry the Seventh may be in force against you, under the recover'd Reign of the Lineal, however they stood in the Days of Henry the Sixth. 'Tis true, Heirs Lineal, that promote such Treasons, may, and no doubt always do stake Faith and Troth, not only to indemnify, but prefer their Adherents. But in Edward the Fourth's Age and Army, the Souldiers were not Lollards and Hereticks, with whom the most Holy See, and the more Holy Society will keep no Faith, especially to succour and secure their Herefie. He that hath

hath seen what has been, may easily see what will be, if he will not shut his Eyes. \* But if the Old

\* See the state of the Protestants in Ireland under the late King James. And in England, among all other advances, remember the Fanatick Commissions for enquiry into past, tho' legal, Prosecutions against Conventicles, on purpose to enrage them to join their Schemes with the Papists, to cut our Throats, who had but just before saved the Kings own Throat from the same Hands.

prudent Cution *sequestrare* will produce no faith in you, I leave you to your own Paradiſe Dreams, and Dotages; since the sagacious Observation of the Poets never quadrated so well to any person, or purpose as me and mine upon this occasion, *invitum qui servat, idem facit occidenti.* And yet for all my good will, the sport you make with

me, in your *Edward* the Fourth's Martial Oration, exposes your Principles perhaps more than my Law. For by the strains y<sup>e</sup>u have made upon the Duties of Christian subjection, which Custom has named Passive Obedience, *Edward* the Fourth's Souldiers had been bound to have fought for him, tho' he had made them such an Oration, which could not have been imprudent upon your Principles of Christian Loyalty. But if such an Oration would have justified the consequent Revolt, or recession of his Army, then is this Nation, and all the Protestants of King *James's* Army justified in their leaving him, and going over to the Prince, since his assumed Dispensing Power, and superlative Prerogatives, the Obedience contracted to the See of *Rome*, and the Society of *Jesus*, and all his hasty steps he made to the dissolution of our Laws, Liberties, and Religion, were a Proclamation as fatal to this Kingdom, and his Protestant Souldiers, as the Speech you have framed for King *Edward*. And they

they took the Language and intention of his Actions accordingly, as if he had said; My Protestant Nobles, Clergy, Magistrates, Officers, and Souldiers, do you actually fight for me, execute all my Commands, be passive under all my Contrivances against your Religion, Laws, and Liberties, and when I have gained my ends, I'll make you all sworn Slaves, and Papists, or else I'll melt your Grease for you. But to return from this pertinent Sally; as to the Law, that I set it rightly, as it stands at this Day from a long Descent, is notorious to the World, from the Judicial and received Determinations in Parliament, and the King's Courts, so often pleaded, and alledged by the Advocates for our present Allegiance, to whom, and to whose Originals I therefore refer you. Only I think fit here to relate the yet unpublished sense of a most judicious and excellent Person, sent me before any Prints appeared on this Subject. His words are these; *What I principally insist on is, That our Law requires Subjection, and Obedience to the Powers in being. To prove this, I shall here set down the words of Sir Edward Coke, and in the Margin note the Authorities to which he refers. Sir Edward Coke, speaking of the Statute of the 25th of Edward the Third concerning Treason, saith, that this Statute is to be understood of a King in Possession of the Crown and Kingdom. For if there be a King Regnant in possession, altho' he be Rex de Facto, & non de Jure, yet is he Seignior le Roy, within the Purview of this Statute. And the other, that hath Right, and is out of Possession, is not within this*

Vid. 11. Hen. 7.  
c. 1.

4 Edw. 4. 1  
Instit. Part.  
3. tol. 7.

this Act. Nay, if Treason be committed against a King *de Facto*, & non *de Jure*, and after the King *de Jure* cometh to the Crown, he shall punish the Treason done to the King *de Facto*; and a Pardon granted by a King *de Jure*, that is not also *de Facto* (mark this, for it concerns the Nation against wheeling Declarations) is void. So to the same effect, Judge Hales his Pleas of the Crown. pag. 11. This Argument (saith my invaluable Friend) I take to be of great force; because the measures of Subjection are not the same in all Countreys, but must be taken from the Laws and Customs of every Countrey. Thus he. And if you will impartially reflect upon your own Words, in which you blame me for inferring, that King James, when he returns, may punish Men for breaking Allegiance to King William, these words concede it. For if you admit unto me a breach of Allegiance in fact committed against King William, you then presuppose an Obligation for Allegiance to him so broken; and to break a Duty is punishable by the penal Sanction, or virtue of that Law that makes it a Duty; and therefore if not punished, nor pardoned before the return of the King *de Jure*, he may punish it as a Crime against his Laws. And your taking the instance of the *Oliverian* Commonwealth to this your concession, impudently admits Allegiance due thereunto, and makes the Opposers thereof Traitors, and Legally punishable by King Charles the Second for High Treason. But in Truth, no Laws had engaged Allegiance to O. C., or his Commonwealth, as they have to Kings *de facto*. And moreover if the Estates themselves in free and (at that time, and case extraordinary) legal Parliament upon the antecedent Expiration, and in utter Renunciation of that Commonwealth, and all

all other Forms of Democracy recalled him, it had been Treason to have opposed, and Loyalty to have concurred in that their Restitution. But I stated the Case of O. C. so clearly in our last Conference, that I fancy it beyond the power of *T. B.* himself, as spiteful as he is, to parallel the Tenure of O. C. with that of King *William*, whatsoever he may without Argument rant and rave to the contrary. As for the Reproach of stirring up the Powers, or the Mob against you, I reply, that you prevent me in that Intrigue your selves; and I will give you any Form of Security, either Sacred, or Secular, upon Soul, or Body, or Goods, that I will never provoke them against you, as much as your selves have done, and still, for ought I see, persevere to do.

*Dyscher.* We are very luckily fallen in again, upon the mention of O. C's Authority and Settlement over us. I pray let us review that Article. For tho' *T. B.* for want of Argument, cries out stark shame upon you, and is once (oh wonder!) ashamed for you (in such a sort of Civility as he never vouchsafes himself, how much soever he needs it) because you will not be confuted by his Brags and Impudence, and our Learned Pens, I will see what Grace may be wrought in you by some Impartial Reflections of a softer Metal, but of great weight. You make a pretty sort of disparity between the Tenure and Settlement of King *William* and O. C. \* *Because*

O. C. was not King; as if the \* Sol. & Ab.  
Charm lay in a word. Call him e. 12, 13.

Hospador, if you will, for me. Is  
not the Duke of Mulcovie King of that Countrey,  
because he is called Duke? Is it the Authority and  
Power

Power we are speaking of, not by what Names it is called M. S. Reflex.

*Eucher.* I took my self for a Conjurer, nor will I endeavour to enchant you with words instead of things, since your Temper will not hearken to the voice of the Charmer, charm he never so wisely. And therefore without troubling the Peace of that great Duke you may please to remember, that there is an old, received, and approved distinction between the Titles, and Characters of King, and Tyrant. The former, is he that Reigns according to the Laws, and Forms of Civil Constitutions, and his Character, and Authority, is Grateful, and Honourable. The latter, Rules by meer force, oppression, and bondage, without any Civil Form of Tenure, or Settlement, by a power only potential, not potestative, and therefore without a proper Authority. And this Character is in most especial manner given to Usurping Rebels, as well as to Foreign Invaders; to destroy which Tyrants, the Universal Sense of Nations ever judged it lawful, because they have no Form of Title, but that of the Sword, Violence, and forcible Entry. Now King *William* holds this Sovereignty by the former legal way of National Contract, and Civil Establishment; but O. C. had no other Mode of Profession, but Tyrannical; and so had no legal (which is the only Form of) Authority. And yet beside, perhaps the very Style of King is necessary to the real Sovereigns of *England*, in order to their Claims of Allegiance, by virtue of the old Oath and Laws; tho' when new Laws and Constitutions extinguish the old, a new Allegiance may be due to a new Sovereign under any other Titular Style. But if this Style be thus necessary to oblige our

Part I  
mes it  
or will  
stead of  
to the  
wisely  
of that  
r, that  
inction  
g, and  
accord-  
nstituti-  
rateful,  
meer  
y Civil  
er only  
thout a  
n most  
as well  
yrants,  
r law-  
e, but  
Entry.  
by the  
d Civil  
ode of  
o legal  
and yet  
cessary  
o their  
d Oath  
stituti-  
may be  
itular  
oblige  
our

our Allegiance by the old-Laws, then for want of that very Character, no Allegiance was due to O. C by our old Laws, which was the first thing in question. But then I proceeded further, and shewed, \* that he had no legal Form of Settlement in the Sovereignty by any other Laws, to which I refer your Memory and Consideration. For the improvement of which I will further demonstrate, that he was no King, either in Name, or Thing. For first, he was Created even by his own Faction, not Sovereign, but Protector only of the People. And that Office was not Royal, as appears by the third and fourth Articles of the Instrument of his Government, instituted by his Officers first, and after again pretendedly confirmed by his pretended House of Commons, which he had first purged of all suspected Persons, and this, after he had refused the Style of King, which he saw would not pass Muster in his Army. Tho' therefore he Ruled by the force of his Confederacy, yet not as legal Sovereign, nor according to any Law, or lawful Form of Constitution, even in that false Authority. But if you will allow meer Force to be sufficient to a Settlement and Constitution, then all the little Elves and Goblins of Power, that after him pretended to sit at Helm in the whole course of those Changes, till the Return of the royal Family, were all worshipful Mushroom Sovereigns forsooth. And what I have heard a Person of great Parts, Honour, and Authority, sometimes say, that tho he is no very Old Man, yet he hath seen five and twenty Governments in *England*, was perhaps as severely true, as it seemed pleasantly spoken. Have you any more Straws to pick

pick in this Matter, or will you dismiss me in peace?

*Dyscher.* No, no, Friend; you must not think to slip your Collar so. *You say, that O. C. did not, and could not pretend a National Contract, as having no House of Lords, nor free House of Commons. Whatever he might do, I am sure, that he did pretend, that he was advanced to the Government, by the Consent and even Grant of the People of England. What was it else he did pretend?* *M. S. Reflex.*

*Eucher.* Tho' I mentioned his Non-pretension, as well as incapacity to pretend a National Contract, to argue thence, that really he had none, yet the intended force of my Reasoning, lies in his real want of such Contract, of which his Non-pretension, in his Case, and care for Pretensions, is a Moral Argument. For had he really had it, the Civil effect had been the same without a Pretension, which alone can have no Civil Efficacie, or Obligation. But however, that I may not seem to neglect your Pretences, let us examine his. I allow therefore, that he made some Pretence, but none to the Lord's House, which he utterly cashier'd, which yet however had been, and still is, necessary to a National Contract. I allow you also, that he pretended his Advancement by the People, as the word restrainedly signifies the Commons of *England*; and he had a small Colour for this, in the acknowledgment of the Usurping Pack, that pretended to sit for the Common People of *England*, against all the Laws and Rights of the People. And yet, had these been a true, fair, and full Representative, they could not have  
gives



Part I. *Justice and Piety, &c.* 175

given O. C. a Legal Dominion over the superior Estate of Peers, because the Commons never had it themselves. But as the word People properly comprehends all subject Orders, Estates, or Persons of the Realm, so neither did, nor could he pretend an Advancement by the People. But the main point we are concerned in, and which you can say nothing for, pertinent to our Debate, is, to what State, Stile, or Character he was advanced, or pretended to be advanced by them, whom he called the People? Was it to a real Royal Sovereignty? No, no; his Mouth Watered, his Bowels hanker'd at it, but he was however forc'd to sit down, and pretend only to a Protectory Trust for the Commons of *England*.

*Dyscher.* This, I confess, reduces me to some difficulty and unexpected Surprize. Yet will I repeat to you the remainder of what my reflecting Friend remarked, that, *in the next place for the justice of his pretence, that he had no House of Lords, I suppose he made that no pretence against himself, as you would have me believe.* MS. Reflex.

*Eucher.* Truly I never perswaded, or tempted you to believe that O. C. made any pretence against himself: I only told you, that he neither did, nor could pretend the Contract of the Lords House; and can you prove the contrary?

*Dyscher.* But he did not think a Lords House necessary to make a National Representation. It could not be so originally. And therefore they as Lords are no Parties in the Original Contract.

L

We

\* This is false, for there were near 200 excluded Members that could not fit to make it an entire House.

*We know an \* House of Commons hath Voted them uselefs. And at this Day the Lords do not pretend to the Right of granting away the Money of the People; And I suppose it is upon this Account, that they do not look upon themselves as the Representatives of the People.* MS. Reflex.

*Eucher.* Here I think my self obliged to do your Party right, that these are not their common Sentiments. This was a singular *Nostrum* of your assuming Emperick, to heal a diseased Cause. But by the good leave of the Lords and Commons, whom I have no mind to set at variance, we will sift these odd Politicks. Is it then first of all likely, that O. C. did not think a Lords House necessary to a National Contract? If he did, it's no matter, if he did not think them National Representatives. The Language of Men herein is various; many Men commonly assert the whole Parliament to represent the Nation, since what is Enacted by them and the King altogether is taken for the Act of the Nation. But strictly speaking, the Lords are no formal Representatives, nor did I ever say they were, tho' you would trump the term of Representation upon me, to ensnare me to a concession that the Lords represent. But I am not so to be tricked. I know the Lords to be an Estate Originally Principal, acting Personally for themselves in their own Right, and Name, not in the Name, or on the Mission of others; and under the King they are the upper part of the Parliament and People in the most comprehensive Sense of this word, But the lower House

Part I. *Justice and Piety, &c.* 177

House only are the Representatives of their Respective Counties, Cities, and Burroughs, in whose Name, and Right they Act for all the Commons of *England*. But if O. C. knew the Lords House necessary to the King himself to Enact the Bills even of the Commons into Laws, could he think them needless to the legitimating his Order, or his Acts? Surely he could not, except upon this one only supposition, that he thought nothing could legitimate it, which is indeed not improbable; but then that exauctorates the Commons also of that Power, by which he pretended himself advanced. But could O. C. otherwise think the Lords needless to his Legitimation, upon this empty and impertinent Speculation, that there could be no Lords in the Original Contract? Which can be true neither in any other sense but this, that in the first Constitution of Civil Government in this Land, there could be no House of Lords. No, verily; for before, or till then, they were in a mere rustic, Pastoral, and agricolarian Habit, Quality, and Condition. But since that there have been many Changes of Governments, and in them of Sovereigns, by National Contract. And hence, I say, ever since there have been Baronies, and Peerage in *England*, in every settled Change of Government, and Sovereigns, made by National Contract, the Lords were in those Acts that originated those Settlements, Titles, and Sovereigns, and so would have been originally necessary to an Original Contract for O. C.'s Constitution, tho once in a state of Rebellion, a seditious Party of the Commons voted them useless. But I ask you fairly; Was that Vote of theirs Truth, or Law? If so, why have the Kings and Commons ever since admit-

ted their Use, as well as Right? If not, why did you alledge it in Bar to the Rights of Peerage? But supposing that wicked Vote had been at that time true; yet who had made them so useless but they by seditious Violences? Now would you think it reasonable to cut off a Man's Hands, and then reproach him, and cast him out as useless? But I will beat back this dull Weapon on your own Head, and mind you, that these County, City, and Burrough-Charters of sending Representatives, could not be in the first Original Contract for Civil Government, as being also of later Extraction. So that upon your Theory, O. C. must think them also needless in order to his Constitution, who pleasantly new named *Magna Charta*, *Magna F——ta*. And so at last the Truth will come about unawares, that O. C. had no form of Title from King, Lords, or Commons of *England*. Again, if the Lords House should upon a critical Juncture turn Demagogue, and rabble the Commons out of Heart, and House, would it be fair for the Lords hereupon to vote them off as useless? 'Tis scandalous therefore to draw Arguments from Confessed and notorious Violences to justify a wrong Cause; and therefore henceforward give us in Truth, what you seem to Challenge and glory in, just Weights and Measures; at least be not so shamefully disloyal, as to dry up in the King that Fountain of Honour by which he Creates the Peerage, and who is the original Founder of all Charters. As for the Lords not assuming to give away the Peoples Money, as not being their Representatives, 'tis nothing to the purpose against their concurring Interest in Contracting for new Constitutions; tho' neither House can separately give

Part I. *Justice and Piety, &c.* 179

give away the Peoples Money, altho' those Bills are by regular custom prepared in the Lower House. Nor are these Rights of the Peerage so alien from the good of the general Body, but that we and the better part of the lower House have sensibly owed our Peace, and Preservation to the Integrity, Care, Wisdom, and Honour of that Upper House, when many of our own over-heated Charioteers have been furiously driving on all to the Precipice.

*Dyscher.* We will then dismiss the Lords in peace, and come to the Commons, on whom O. C. relyed, and *Whereas you say, O. C. had no free House of Commons, I answer first, he did not pretend that, which is a sufficient Answer thereto.*  
MS. Reflex.

*Eucher.* Are you awaked in good sober sadness, or have you almost talked your self into sleep, and Dreams? For tho' your Answer be sufficient to some purpose, yet 'tis so to mine, not yours. For not having a just freedom, as well as Title to act for the Interest and Sense of the People, their Acts were not the Acts of the People, but either private Acts of Cowardise, or rather the Acts of him that forced or managed them to his own Counsels, and had no more legal validity, than what meer Force and Fraud could give them.

*Dyscher.* *All that I will further say to this point, is, that they called themselves free, and no Man durst say the contrary. While they had the Power, O. C. owned them, and they owned him; and he had as Universal and seeming a Consent*

of the Nation, as can well be imagined; he was obeyed at home, and owned abroad, if not in all, yet in most of the Courts in Christendome.

*Eucher.* How your Discourse consents to it self, I do not well understand. Just now you said O. C. did not pretend to have a free House of Commons; now in the same Breath you say, they called themselves free, and no Man durst say the contrary, and O. C. owned them. Now did he own them to be free, as they called themselves? If so, then he pretended to have a free House of Commons contrary to what you say. If he did not own them as free as they owned themselves, he must then either not own them at all, or only as Vassals, and I leave it to your Choice to take either of those Handles, for there is no way to extricate you from the ties of Contradiction. But whatsoever freedom this knot of Men had, it could amount to no more than the freedom of *Banditi*, or *Rapparees*, or any unsuppressible Rout, which is but a mere impunity to do Evil, and wrong the innocent. But the freedom we are speaking of is Civil, consisting in the Popular liberty of Election, Session, Debates, and Votes. Yet the very House, that Constituted him Protector, was first purged of all suspected Members, and upon their after admission, his Constitution began to be questioned as much, and for this O. C. dissolved them in most sacred Rage. And for the truth hereof also I call in Testimony the Sense of the whole Nation, who, as soon as opportunity offer'd it self by *Monk*, declared for, and after met in a free Parliament, which before they had long wanted. And hence it appears also the Sense of the Nation,

tion, that neither the Rights of Peerage, nor the Freedom of Corporations had been Legally vacated by the former Tyranny. As for the Negotiations of Foreign Courts, they are no Demonstrations of a National Contract, or Form of Legal Settlement here. For as Foreigners are no Judges of our Tenures, so they meddle not with them, but only treat with the actual prevailing Powers, whether Legal or Usurpant, Tyrants or Rebels, its almost all one to Strangers. They give them all good words to serve themselves of them, but if disgusted, they then change the Tune into all the juster Names and Titles of Oppression and Villany, if they can do it safely. So that there is no conclusency in this sort of Reasoning, tho' yet at the best, his Complices and Strangers owned him no otherwise than he stiled himself, not the Sovereign, but the Protector only of the People. But the boldest stroke of all is, that he had as universal Obedience, and seeming a Consent of the whole Nation as can well be imagined. For the formal consent of both Houses, sitting free from terrour, may easily seem, and be imagined much more properly, formally, and validly National, than meer enforced silence, and patience under irresistible domination. Nay, we as yet have no other way of National Consent but the Parliamentary, without which all Personal Contracts, or Engagements to intruding Powers are null, and not legally interpretable to any Civil Form, or Obligation, and so not to be drawn into a pretence for a National Consent. But now at last see, I pray you, the Issue of this *αὐτοκρατορία*, and eager desire of Contention. For to make King *William's* Title no better, but worse than

than O. C's, to the end that the then legal and Loyal Recusancy may legalize this of yours, (which is the one and raging Clamour of you all) you forsooth outpitch your self, and would prove O. C. fully settled by a National Consent, as great as can well be supposed, and by the general acknowledgments of Foreign Courts to his real Sovereignty, tho' not nominally Regal. Now were this true, all the Loyal Worthies Recusant to O. C. are Condemned for Rebels by the Convocation Book. And then if O. C. were thoroughly settled upon such Acknowledgments at home and Abroad, much more is King *William* so, and consequently by the Rules of that Convocation, you must yield him your Allegiance. Thus Brother, in *Politics*, as well as *Poetics*,

*In vitium ducit culpa, fuga, si caret arte.*

Upon which let *T. B.* blush for you as well as for me, and then we shall be even.

*Dyscher.* Well then, let us pass from these Debates about the Oath to the Office of Prayers for your King *William* and Queen *Mary* against all their Enemies. Of which you tell us,

\* *Sol. & Ab.* \* *That the Prayers were consented to by all the Recusant Bishops, and by*

\* *[For their Officers] was* \* *or their Officers without any Prohibition) sent to the Clergy of every Diocese, and by them generally received. The Bishops were pre-*

*sent at them, directed their Clergy upon Consultation to use them; and thus things stood till the Day of their Suspension, and no blowing of the Trumpet against Perjury. Now if this were true, yet*

if



Part I. *Justice and Piety, &c.* 183

if the Prayers are truly chargeable with something unlawful, and wicked; that is such a daring affront to God Almighty, that neither any Act, or Neglect of theirs can justify either your or my Concurrence in them. And therefore I wonder why you should make such a Lye, when it will not serve you for a Reason. For it is well known to all, who frequented their Communion, that they never read or used those Prayers, and that is no improbable Argument, that they neither consented to them, nor sent them abroad. But the truth is, that they were so far from either consenting to them, or sending them to their Clergy, that they had no opportunity of the thing, 'till it was done and past. And whether some Body told you this Lye, or you made it your self, if you please to consult the Printer in the Savoy, — he can tell you how they were sent, and who sent them, and that those whom you call Recusant Bishops, were purposely kept ignorant, that they might not be able to give any obstructions to the business. And now, Sir, do not you think, that you have acted a very mannerly Part to our Reverend Fathers, in exclaiming against them, and comparing them to winking Watch-men, and dumb Dogs, because they do not get up o'th' top of the Monument, and haul out against a thing, which they knew nothing of? It could not be done before, and since it hath been cried out against sufficiently. T. B. Sec. Lett. pag. 31, 32.

Eucher. If what I said of the Bishops, or Clergy herein be a Lie, I own it to be as Villanous a Calumny as ever your malevolent Tongue, or Pen framed; but if it be true, I think it a just Plea, not to Reproach those excellent Fathers,

thers, God forbid! but on an undoubted presumption of their Sincerity, to infer, that they then as well as we, did not judge those Prayers unlawful. And it is a fair Argument in Moral Charges, used and allowed by all Orators, that we had the Consent of those, who now dissent from us, if at least those Fathers do yet dissent from us. But now I am brought in upon an uneasy Stage, upon which we are not so much to Argue, as to give and take the Lye; and not only so, but to be under Provocation to discover Secrets against Moral Inclination, or otherwise to undergo the Censure of a Liar. Whether of the two Evils I shall choose I woe not well. Yet, let whatsoever Opinion fall upon me, I will never discover Persons, nor the tenth part of what I know in fact to be true herein, to prevent all Obliquities of Censure, and Reflection. But yet notwithstanding this necessary Civility, I think my self obliged to vindicate the Truth of what I have asserted. Immediately upon admission of their Majesties to the Throne, an Order of Council passed for setting their Names and Royal Character in the Liturgy instead of King *James*, and this Order was sent down to every See, and from thence to every Parish in all the Dioceses of *England*. Now can any Man think, that all this was done in Corners, and managed in the Dark, to keep the dissenting Bishops ignorant hereof, when it was impossible to conceal the Design from the Sense and expectation of the meanest Idiot, who must know, that the change of Sovereigns draws after it such a certain change in the Prayers? I cannot say this Order was sent directly to the Bishops by Name, but if not, it was to their Officers

Officers and Registers. And were they also so much in the Secret, as to keep their Watchful Lords in ignorance, and so closely to send the Form to the Cathedrals, and Parishes, that these deluded Fathers should know nothing of it? But when however these surprized Fathers were alarmed in their Cathedrals with these new wicked Prayers, why did they continue to frequent them, without sending the Classick to their Prohibition; 'till the Day of their Suspension in Aug. 89? And in that interval, administer the Sacrament at the Cathedral Altars, where these Sovereigns were then prayed for? Why hereupon had there not been some publick Remonstrance to the Dioceses, or Rural Deanries, that the Bishops knew nothing of that Order being sent them, and that they did not allow, but forbid it by a firm Injunction? None of this was done to undeceive the Clergy, who received the Order as sent them by their Bishops. And I could produce you Instances of Recusant Clergy-Men, who then read those Prayers on that presumption, and alledge it for their Apology, when Taxed hereof upon their present inconformity. Here was half a Years time to have repressed, or at least to have condemned this Service, yet all past in silence, and in their visible Communion. During this Tract of time can any Man think, that no Clergy Men had any Conferences with their Dissenting Bishops hereupon? And in those Conferences did those Fathers Condemn, and forbid these Prayers, at which themselves were daily present? No, I believe no where; and somewhere in several instances I know the contrary, that directions have been given to use our present Forms. But one thing I will further tell you, that these innocent

cent Fathers were not so gulled, as you pretend, in the first motions. For upon the Enthroning of their present Majesties, and the Change of the Prayers, and Oath of new Allegiance; the Recusant Bishops met together in Consultation, how to act in these Affairs, and after all Debates agitated, they came to this Resolution, that they would not oppose the Prayers, for that it would seem too invidious and uncharitable, to deny their Majesties our Devotions, but determined only to stick at the Oath. This I presume those Fathers will not deny; and if any of them should hereafter challenge me for this Report, I will give them my Author, whom I presume no Man can impeach of falsehood, or Detraction. But I would not have mentioned this, had not you reproached me with the Lye, even while you endeavour to cover the most evident Truths with Clouds and Darkness. Nor do I mention this to cast a blemish on them. For did not their Deprivations seem to them Schismatical, I believe they would not have repudiated our Communion upon the mere account of our Prayers, as neither did your great *Coryphaeus* till the Deprivation of the Primate. All which is open Truth, tho' these Fathers never read these Prayers, which I never charged on them, since 'tis otherwise very rare to hear Bishops reading the Prayers in any Church whatsoever. And this Concession to these Prayers being past on their most serious considerations, there was no Cause why they should blow the Trumpet against what they judged lawful. But had they really judged the contrary, this concurrence had been worse than the neglect of winking Watch-Men, or the silence of dumb Dogs, to which I never compared them, tho'

tho' your Cenforious Rigours must brand this moderation with more infamous Characters, as is evident from this Discourse of yours, and the second Chapter of the first Part of your Treatise of Christian Communion. And having thus vindicated their Equity and my Reverence thereof, methinks such a Man of Manners, as you have approved your self hitherto to be, should have besprinkled our Fathers also a little more decently, and not (as generally you do) with Tinctures drawn from the Lake of *Sodom*. But to leave you to the felicity of your own good Humours, I shall only observe, what a silly *innuendo* you flurt upon the Secretaries, or Council of State, that they were in great fear, what stirs these Bishops would make, had they not concerted with Mr. *Jones* at the *Savoy*, to carry on this Religious Intrigue in the Blind, whereas these Fathers expected their determined Fate with all imaginable calmness, and serenity, as Men that well understood the patience of Saints. And in that exemplary Patience they were impatient at those, who thro' too great bitterness, called our Conformity, *the Apostacy of the Church of England*; for the truth of which, if you will not believe me, I hope you will Mr. *Dodwell*, to whom I therefore refer you for satisfaction. And therefore you, that would raise you a Monument out of those Flames you kindle, by reproaching us with infamous Imputations, recede from the pattern, and act without the direction of your Fathers.

*Dyscher. Another Reason why we may lawfully join in those Prayers, is because (as you would Perswade us)*

King

King James and your King William are very good Friends. And you prove it, for that the Prayers express him not; — and that you rank him not among the number of King William and Queen Mary's Enemies. MS. Reflex.

For an Enemy is one that designeth to injure a Man, and we are not sure that King James doth so design against King William. —

But supposing he will do no Wrong, yet sure he may demand and endeavour to recover his Right. And I am apt to think, that your little ambitious Dutch Savour would think no Man in the World so much his Enemy, as he that demands three Kingdoms from him. Nor do we call only those Enemies, who design Injuries, but even all, who actually oppose each other, or between whom there is any Contest, let their Designs be what they will, or their Cause right or wrong. And after all your daubing, he certainly is accounted the greatest Enemy, for whose sake all others are judged Enemies. Now tho' the King of France be such an abomi-

That King James is not among the number of King William and Queen Mary's Enemies. MS. Reflex.

But do you not verily believe, that King James would willingly regain his Crown, if he could, and consequently dispossess King William? Or do you think this no Injury to King William? And no more say you, can be intended in those Prayers (of the Liturgy for King William) than to defeat him (King James) in that Injurious intention. For we pray for no Mans, nor Kings Destruction, or hurt.

These are Sol. & Ab \*your reasons why no Jacobite ought to

noble

nable Enemy, he should soon he esteemed the best Friend, if he would but renounce the Interest of K. James, and suport the U-  
surpation of the Prince of Orange. T. B. Sec. Lett. pag. 32, 33.

*Scruple to join with you in the Common-Prayers for King William, viz. To strengthen him, that he may Vanquish and overcome all his Enemies, because King James intends*

him no Injury. Transubstantiation is easie to this. This is perswading us out of all our Sen-  
ses at once. King James and King William appear upon the Head of two Ar-  
mies, [\* and Fight] and each calls those Rebels that adhere to the other; and yet they are not Enemies. It is no hurt to the one, if the other get the Victory, and therefore you may Pray for Victory to King William, without meaning any hurt to King James. Why then are you offended at those that Pray for Victory to King James against King William? Here is no Injury intended to King William, only that King James may have a Victory, that is all. Is this the Argument to perswade Mens Consciences to join in your Common Prayers? Is this the strength of your Cause? The strong and solid Conviction of the sincerity and plainness of your Dealing? MS. Reflex.

\* These two words might well have been spared, to cover, &c.

*Eucher.* In this Triumphant and fastidious Harangue, these things severally offer them-  
selves to our Consideration:

I/z. Whether

1<sup>st</sup>. Whether the Strength of our Cause lies in this Account of our Prayers?

2<sup>dly</sup>. Whether this be not the Sense of many *Jacobites*?

3<sup>dly</sup>. What is the full importance of the word Enemy?

4<sup>thly</sup>. What the importance of Vanquishment and overcoming?

5<sup>thly</sup>. What really is the lawful Sense of these words in the Liturgy?

6<sup>thly</sup>. What is the Reason why Kings are particularly Named in National Prayers?

7<sup>thly</sup>. Whether our Prayers for King *William* must inevitably strike at King *James*?

1. Then the strength of our Cause lies not herein, nor fails in the Defects of this Account. For in blunt Truth, if King *William* and Queen *Mary* be our Sovereign Lord and Lady, the same Prayers in the same full Sense, are to be used for them, in which they were used for all their Predecessors. So that if King *James* comes into the Number of their Enemies, against whom the perpetual Sense of those Prayers lies, we cannot help that, while we innocently perform our Duties. The greatest Objection against this that



know is, what your great Author of the Christian Communion herein offers, that they that look upon new Sovereigns only as Kings *de facto*, do herein pray for the Subversion of Right, and him that has it, and these make up a great Number of the present Conformists. But that question properly comes under dispute upon the Notion of *Enemies*, and *Victory* in our Prayers, and on that Head it shall be considered. The only question here is, if a King *de facto* can be our Sovereign Lord? This I know you deny, and if your denial be good, it presses our Prayers much, if offered for a King by us taken for *de facto* only. But if the Nation hath a lawful Right upon great Exigences to admit a Person into the Sovereignty, who had no Right to enforce them thereto, then as to the Nations part they have lawfully admitted him to be their Sovereign Lord, and have yielded him all that Authority over us, that the Laws of the Land in such Necessity allow us to concede. And such is the Case in all Submissions upon new Conquests, tho' injuriously gotten. For in such Cases the submitting People, being no Authentic Judges upon the Cause of the new Potentate, can only judge for themselves what they may lawfully do, and leave his Cause to God, whether he on his Part takes the Crown *de jure*, or no. Thus before the Recognition this Nation had *de facto* admitted K. William, and every Person was bound to receive him at least for such, and had there never been any Recognition *de jure*, no Man was an habil Judge to have condemned the *jus*, whatsoever Mens various Opinions in private might have been, on which they ought to have laid no stress, but to have received him as their actually settled and constituted Sovereign Lord, and required no more; since no more was determinately required of them. If a Captive in *Algiers*, &c. be required

to pray for his Lord and Master, that is so only *de facto*, he may certainly do so under those Titles, and is bound to do so upon command, if he has contracted Service. I know you will here say, this Contract gives the Tyrant Right; But then you must grant, that the Submission of a Nation passes Right *ipso facto*, and then you put the Nation *de facto* only clear out of doors. Here you will reply, that such Submission cannot be *de jure*, as being injurious to the present Right of another; But then so will I say, the Captives Submission and Contract is against the permanent Right of his Parents, or former Master, who thereby may lawfully rescue him by force of Arms. And yet notwithstanding this the poor Slave, may thus pray for the Captivant as his Lord; nay, even that he may vanquish and overcome all his Enemies, even while the former Proprietors are fighting for his Rescue, in the same Sense we intend in our Prayers for our most rightful Sovereigns, as shall clearly appear on the fifth Head of this Answer. King *William* therefore being actually our Sovereign Lord, even by our own warrantable Contract, we may lawfully use these Prayers, for him, and on his Command are bound to do so, even tho' he were only King *de facto* in the legal Sense of this Term, and not altogether, as we have owned him, *de pleno jure*; because it will appear, that these Prayers are not levelled against any Man's Right, tho' they are against all his Enemies. Now the truth is, the Relation, we lately stood in to K. *James* as our then Sovereign, makes tender hearted Men pity his whole personal History, and consequently unwilling to pray against him, if there be any fair, or lawful way to avoid it, which there is not, if he comes not into the Number of those Enemies, which we are to pray against. Such also is the Temper of poor People under

under new Conquests toward their former Sovereigns, when obliged to pray for the new (that appear no otherwise than *de facto* such) against all their Enemies. Yet this is only an Operation of Bowels and good Nature, but not of strict and impartial Reason, (tho' it influences much upon Men's Spirits) but is to be guided, and corrected in its Excesses thereby. Hence upon the beginning of this Change an excellent Person, that was easily satisfied in owning their Majesties Title Sovereign in the Prayers, yet stumbled at the Passages about Enemies, till he receiv'd with much pleasure this very Answer, for which you deride me. But, as I have now said, the only material Question here is, if *K. William* and *Q. Mary* actually are our Sovereigns? for this being granted, all the rest follows of due Course without respect of Persons, whosoever be their Enemies without exception. But I confess I was willing to give you as healing a Lenitive as I could, that I might not widen the Wound, nor exasperate the Division; but, it seems, while I labour for Peace, you make you ready for Battel.

Secondly, This seemeth to be the Sense of many learned *Jacobites*, without which I see not how their Practices can be justified. For, not to repeat the Consent and Communion of the Deprived Fathers in these Prayers before the Day of their Suspension, there are yet many moderate Men among you, that read these Prayers, tho' deprived for taking the Oath. Now do you think, that these Men direct their Prayers against *K. James*? If they do, then upon your Principles they break their Allegiance and Oath to him, which they judge oblige them to this very Day. Which methinks should make you less lavish of your perjurious Imputations upon others, whose Principles acquit them from wilful and intended

Perjury. Yet there is no way for these Men of yours to avoid this Charge upon your Principles, but by such a Sense of Enemies, in which it is possible *K. James* may not be included. But if they intend not their Prayers at *K. James*, how are we charged for praying against him, when we and these *Jacobites* in the same Words may sincerely use the same Sense? so that in good truth, the Account I gave of these Prayers becomes a Plea necessary, not so much to us, as to your own more moderate and equal Brethren, against whom therefore for the future you must turn your Style, and Acrimony.

Thirdly, I will now proceed to justify my Sense to be the only allowable Sense of our Prayers under any the justest Reign whatsoever, and not merely accommodated by me to the present Juncture. This will first require me more fully to open the principal Notions of the word Enemy, than for reasons private to my self I did in my last Conference. The word Enemy therefore has two known principal Acceptations, moral, and military. Morally an Enemy is one that intendeth Injury, or Hurt; and so this Sense carries Malice in it. Militarily an Enemy is an opposite of War, which innocent Princes, People, and Persons may be forced to be, who have no Malice, or moral Enmity; as in Self-defences against Oppression, in which it is possible, that the Defendants would not willingly hurt any of the Oppressors, nor engage even in an advantageous Battel, if it could be avoided; but gladly close up the War. And yet both the injurious Aggressor, and all Neuters in the Cause by custom call these just Defendants Enemies to the other Opposite, not charging them with moral Injury, but respecting their military Opposition. The *Greeks* and *Latines* have two proper distinctive Names for these two sorts of Enemies, *isēis* and

and *inimicus* for the Moral; *πάλῃ*  $\Theta$ , and *hostis* for the military Enemy. Other Opponents are most properly called Adversaries, as a Term of a more comprehensive Latitude, reaching to the general Nature of all sorts of Contention, serious, or sportive, good, or bad.

Fourthly, We are to examin the importance of Vanquishing, and Victory. For this indeed seems to admit a far greater, and benigner Latitude of signification, than you in your Reflexion seem to allow. For you seem to apprehend no Victory but in Butcheries, Ruines, and Desolations. Whereas many successful Expeditions; (as that of General *Monk*) have been victorious without Hurt; since simply, and in general to overcome is no more than to prevail against any Opponents, or Oppositions, whatsoever sort they are of, even where there is no Enmity, as in Games, Wagers, Votes, and Competitions. And there is one sort of Victory more noble than any other, the overcoming Evil with Good, which is God's especial way of vanquishing the Powers of Evil. And even in War those Victories are most noble, where least Hurt is done, and most Mercy shewed; and thereupon the best and most noble Desires of Victory are those, whereby we wish to prevail against our Enemy, if it be possible, without hurting him, or his Party at all, and more than this we are not absolutely to wish, or pray for, even against the greatest Enemies; by the Laws of our most compassionate and holy Religion, which allows Wars only to be waged against our Will, not with delight and bloody Affectations.

Fifthly, We are to consider against what Enemies it is lawful to pray for even the gentlest Victories. First, then it is not lawful to pray for any Victory against the Innocent, in the Innocency of his Cause; no, tho' when he stand

med in his own Defence, the Custom of military Language calls him Enemy. *For if I regard Iniquity in my Heart, the Lord will not bear me.* Thus 'tis not lawful for Pirates to pray for success against innocent Merchants standing on their own Defence; because here Victory in the Pirates side doth not import the Defeat of an Injurious Intention, but an Injury. It was not lawful for K. *Saul* to pray for Victory over his Subject *David*, tho' at the Head of an armed Band for Self-preservation, for the same reason. Whence it follows, that no injurious Prince may

† So the fifth Senior bids *Ptolemy Philadelphus* to expect Victory, *εἰ δὲν ἐπιγαλοῖτο διὰ πάντων. ἵνα τὰς ἐπὶ τοῖς αὐτοῦ καὶ τοῖς αὐτοῦ δι- κείως διεξάγῃ πάντα.* *Ap. Arist. Edit. Oxon.*

† pray for success against the Innocent, whom he designs to oppress. And if so, neither may his Subjects pray for his Victory over the Innocent, for that they may not petition more for him, than he may for him-

self. Otherwise Prayers as directly contrary as just and unjust, would be allowable and acceptable with God. And here indeed starts up a doubt, how the opposite Devotions of warring Nations against their respective Princes Enemies, can at the same time on both sides be justified for lawful and religious, since one at least of the Princes must be unjust, and for the Success of such a Prince in his Injustice all Prayers are unjust? To the solution of which doubt it is necessary to observe, that no religious or lawful Prayers for Temporal benefits are, tho' never so earnest, simply absolute, and peremptory, but always conceived with a deference and resignation to God's Will, either expressly, or implicitly, after our Saviour's Example in his most earnest Prayers at the Approach of his Passion, *Father, if it be possible, let this Cup pass from me, yet not my Will, but thy Will be done.*

So

So then our Prayers for victory to our Prince import a reservation to God's will, if he sees fit to admit them; but we knowing that all injustice is contrariant to the will of God, refer our Princes cause to God's judgments, and will, against which we intend no Prayers, but ground them all on a tacit and presuming supposition, that our Cause is right. For it would be a very impious form of Prayer to say, *give success, O Lord, to our Prince in all his designs of ravage and oppression.* So that, tho' the supposition of Justice at the bottom of all such Prayers be not usually expressed to prevent common jealousy in the Subject, yet it is reserved by decent presumption as the proper duty of the Subject toward his Sovereign, over whose Counsels he has no judgment. And accordingly all our public Prayers in time of War propose the malice, pride, and oppression of our Enemies as the just causes of our supplication, and ground of our zeal, and object of God's Indignation, according to the standing Forms of such devotions in the holy Scriptures. And so a moral enmity supposed in our military Enemies, with our own presuming innocency, with a virtual or open appeal and reference to God the Judge of all, is the only Foundation of such Prayers, and the only Reason, that can reconcile such opposite Liturgies of warring Nations with Religion and Innocency. And if you think this too disloyal and cold a form of Devotion, I pray think again, what an odd sort of Loyalty it is to your King, to contend even with God for his injustice, and to offer him your Sacrifices after the impious manner of the *Heathen*, to accept and promote the abominations of you. Prince. But now upon the Rules by me, &c. a Captive may pray for his Masters Victory, or all his enemies, and yet not execrate those that are in just arms against him, as being guilty of no moral Enmity, or injury in their wars against him. And so ac-

cordingly the Case of all people under new Conquests is to be resolved as to the like changes in their publick Services, on the change of Sovereigns.

Sixthly, it is to be considered; why Princes are so particularly named above other Orders in these national Prayers against Enemies? And the reason is obvious, because the interest of the whole Nations is summed up in the Felicity of their Kings. So that they that are his Enemies, are taken for the Nations Enemies also in these Prayers. In praying therefore against K. *William's* Enemies, we consider him not merely as a single solitary Person, but as our Sovereign Head, on whose welfare our own also depends, and so in his Enemies we pray against our own also.

Seventhly, we must enquire whether K. *James* must in our Prayers inevitably come into the number of K. *William's* enemies, and so by civil Construction the Nations enemies? Now when these Prayers were first ordered and received, K. *James* was in no part of his old Dominions, nor in any actual sensible military Hostility against K. *William* any where. For tho' the *Irish* were in Commotion, yet K. *James* was not there, nor does it appear that they acted on his Commission, but mere presumption, and that not against K. *William*, till his Armies came thither, but their domestic Protestants only. It seemed a while as if K. *James* had sat down, and yielded up to his fate, and state of desertion. After the settled course of these Prayers re-animated by the *French* King he enters *Ireland*, and K. *William* follows. In the mean time the course and sense of the Prayers was still the same, running in generals, and not altering by those changes beyond the *Irish* Channel, as there was no reason they should. And so K. *James* was no more particularized after than before this in our Prayers. . . . Yet if his personal behaviour to-  
ward



Con-  
ges in  
Sove-

es are  
n these  
reason  
le Na-  
Kings.  
en for  
rs. In  
emies,  
olitary  
whose  
his E-

*James*  
to the  
by civil  
when  
ved, K.  
s, not  
ainst K.  
ere in  
e, not  
mission,  
inst K.  
t their  
while as  
his fate,  
ourse of  
ing he  
In the  
ers was  
ltering  
nel, as  
*James*  
ore this  
our to-  
ward

ward *K. William* at the *Boyne* doth not evince the contrary, I will allow you, that then he was a military enemy. But still the grand question is, whether also he was a moral enemy (and so within the intention of our Prayers) by his then present breaking it off from *England*, and his designs thereby to recover *England*? And plain it is, that the sense of our Nation, which is valid and cogent to all Civil obligations, doth conclude him an injurious, and moral enemy to *K. William*, and this Realm. For *Ireland* belonging thro' a long fixed Right to the Crown of *England*, it must appear injurious, after an effectual Abdication of this Crown, and a Settlement of a Title therein upon *K. William*, to invade *Ireland*, and so to reduce us here under war for a recovery thereof, and a defence of our own land from his illegal claims, and pretensions. And whereas without any sense of modesty you say, that I assert *K. James* and *K. William* not to be enemies, but good friends, viz. that *K. James* is so friendly to *K. William*, for that he intends *K. William* no injury, you may resume your forehead, and remember, that I only said, *we are not sure that K. James designs K. William injury*. But what we are not infallibly sure of, we may verily believe, and presume from all the Rules of humane Judgment upon acts of Hostility. And in all humane opinion his Invasion of *Ireland* was injurious, but since all judicial Determinations must be left and referred to God's Judgment, we, not mentioning *K. James* in the number of *K. Williams* Enemies, do not pass our internal and personal Censure on the Conscience of *K. James* before our God, but remit that to God the Judge of all Kings and Nations. But if private Persons will intermix their own personal opinions upon such superiour Causes where they need not, then they, who think *K. James* a moral Enemy to *K. William*, do use our forms against him on that presumption

sumption of his injury; they that do not think so of K. *James*, do not in this form of Liturgy pray against him. And the Liturgy, not compelling us in the acts of our Religion to condemn K. *James* as morally injurious, does not oblige any man determinately to involve him under any of our imprecations. And whereas our Prayers are upbraided in the second Chapter of your first Book of Christian Communion as directed against Right for the maintenance of wrong, it hereby appears, how much mistaken that great Author was; for whosoever can but comport with the Sovereign Style of their present Majesties, may use these Prayers without prejudice to any real Rights of K. *James*, or his own private opinions concerning it. As to K. *James's* Personal hurt, or injury, let them, that can feed an evil, wish it for me. God hath disabled him from overturning our Constitutions, and hath settled us under good and equal Governours, and that is enough; and if K. *James* be elsewhere happy, as long as he hurts not us, we need no further trouble our selves, or him. And I do verily believe, their present Majesties as little require my Prayers for his hurt, as you do. For time was, when he was in the hands of K. *William*, who, had he designed to hurt him, might have done it, and thereby have prevented all the pretensions, that have cost so much Blood and Treasure in *Ireland*. But 'twas piously done to abstain his hands from Royal Blood, and leave the Issues of his undertakings to the Rules of innocency, on which only he could dare to pray for, and expect God's blessing. But further you have forgotten one Argument, perhaps because it was inconsiderable, whereby it appears, that our prayers are not pointed against any Rights of K. *James*, or to any hurt of his Person, for that we pray for all Christian Kings, Princes and Governours, even those, against whom we wage open war. And out of these Prayers

Prayers we do not except even the most *Christian* King, but pray for the preservation of him also in all his Rights, our war not obstructing this practice of Piety even to our greatest enemies, which we observe from the precept and example of our most blessed Saviour. And therefore, though it were true what you would seem to prove in form of Argument, that K. *James* is accounted a greater Enemy (and if you please, add a greater King too) than the *French* King, yet no Enmity ought to be great enough to overcome our Religion and Charity in praying for our very greatest Enemies, even while we pray against their Enmities. But let us however see, whether K. *William* and his Subjects do take K. *James* for a greater Enemy than the *French* King, who it seems to you is accounted an Enemy only for asserting K. *James*'s Cause. First then, if we take the moral notion of Enemy, no man can judge, whether K. *James* or K. *Lewis* has the greater internal enmity against K. *William*. If we go upon the military notion it is apparently false that K. *James* either is, or is accounted a greater Enemy than he, that is the greatest in Arms of all the Christian Monarchs. So that your axiom, from whence you form your Argument, *Propter quod unumquodq; est tale, id magis est tale*, tho' true in Physical Causalities and Operations, yet fails in moral Influences, and Inducements, such as are the reasons of humane Confederacies. And truly if K. *William* himself would, upon reference made, deliver his sense, he would declare K. *Lewis* more injurious than K. *James* in this war; for K. *James* seems to have some colour for provocation; but K. *Lewis* had none to engage in K. *James*'s quarrels. But if he engages on other Reasons, then he is not an enemy on K. *James*'s account, but his own. And if K. *James* and K. *Lewis* should ever happen to come into K. *Williams* hands, there would be so sensible a difference in his

his respects toward them, as would discover his resentments of *French* injuries as greater than K. *James's*, tho' unquestionably he would shew a Royal compassion to them both.

And now I am provided with a Reason, why I dislike your Prayers for victory to the late K. *James* against K. *William*. First, because your Prayers assert the late K. *James* to be our present King, and import K. *William* to be the Nations Enemy, whereby you condemn, and pray against the present Constitution, of which by our Law, and consequently God's Law, you are subjects, not Judges, nor *de jure* Adversaries. Again, you confess you pray absolutely against K. *William*, as K. *James's* Enemy. And this you must judge of him either in the moral, or military sense. If in the moral, you must then do it; either of infallible certainty, or opinion only. The former the matter is not capable of, because of the darkness of men's interiour passions, and the disputable nature of Civil Titles. But upon mere opinions you ought not to pass absolute Censure upon any mans Conscience, and become his utter Enemy by your own choice. And yet were K. *William* infallibly and certainly injurious to K. *James*, yet since K. *James's* Cessation of war to pray for such victories of blood, which you alone account victory, is to pray for a return of a Cessant War in order to a sanguinary Victory, and its Consequences. If you take K. *William* only as a military Enemy, he was then innocent, and so your Prayers then aimed at the ruine of the innocent, and his Cause. But now he is no military Enemy to K. *James*, 'tis more impious to pray for his Ruine, which K. *James* himself does not now attempt. Upon which even K. *James* himself has opened our Church-Doors to you to joyn with us in our Prayers for King *William* and Queen *Mary*. But if you take the

*French*

French War to be K. James's, we have all reason to thank you kindly for your Prayers, in a time of such a dangerous War, as not only affects all our Temporals, but our very Church, and Religion, the noblest Structure, and Bulwark of the Reformation; Of which God in mercy make you truly sensible, and even in this respect turn the hearts of the Fathers to the Children, and the disobedient to the Wisdom of the Just. *Amen.*

*Dyscher.* Yet I find you are not so confident for all your forms of † *Sol. and Ab.* Devotion. For † *You think there is* *PAG. 15.* *one Prayer on the 29th. of May so dangerous, that you graciously give us leave to forbear to be present at it. But, Sir, who gave you Authority to dispense with terms of Communion?* You have done more, I fear, than you will receive any thanks for. None you are like to have from us, who have no need of your License; and you ought not to expect it from those, who will think their Authority hereby invaded. *T. B. See Lett. pag. 33.*

*Eucher.* This I confess is a dangerous folly. Nor was I well aware of that nasute quickness, which appears in this Stricture. But as argute as you are, was it I that thought this Prayer dangerous, or my brother *Dyscheres*? Was it not you, that complained, that in that Prayer, *there is a vow of Allegiance to K. William and Queen Mary, which upon your Principles you cannot be present at, or concede?* Well then, this was so; and what said I? *Then forbear to be present at it.* But must this presently be interpreted to an Act, or Power dispensing with the Duty? Truly I intended no more but to yield, that therein you must be left to act according to your own Principles, and Convictions, and adventure the Displeasure of the Powers, and legal Consequences thereupon; whom, and which I believe  
you

you would not much more exasperate by this one omission once a year, if you constantly joyned in all our other daily Prayers, and otherwise live inoffensively. So it is ordinary to use the Imperative in a bare permissive, without a concessive Sense; as, Do if you will; since you cannot be perswaded, take your own Course, run your own risks, play your own game, take your own fortune, counsels, &c. And tho I confess this is form of permission, that merits no thanks, so neither did I court any thanks herein, either from you, or the Public. For as for you, in this hard time you are not very liberal in point of gratitude, as I have found by my own experience. And I pray God you fail not in this Duty towards God for his mercies to the Nation, as you do towards those that wish you well, because they run not with you into your unaccountable excesses. But as to our Governours, if I have not hereby arrogated the dispensing Power, I hope I have not much offended them; If I have for your ungrateful sakes, I will endeavour to atone for this one offence, and have a Care how I ensnare my self again upon your Score.

Dyscher. But yet you think we need not be so very coy as to this Prayer. For you say, that you have been assured by a good Author, that the Recusant Bishops did not all stick at it; but that some gave directions, and consent to the use of it; and also before their Suspension deputed Persons to administer the Oath in the Execution of the Authorities and Offices Episcopal. Sir, If I should say your good Author was an arrant lying knave, I hope you would not only pardon my bluntness, but also be more careful for the future, how you gave any credit to such Persons. T. B. Sec. Lett. pag. 33.

Encher. Indeed, Sir, if you prove that excellent

cellent Person, whom you know not, to have deceived me with a lye, I am your humble servant. But I cannot but smile within my self, to think how, when this your treatment comes to his knowledge, that religious and prudent person will entertain the blunt Character, considering his most tender Compassions to the Condition of the Deprived. But in truth the reasons of his discovering this advice and consent were not calumnious, but conscientious, as exhibiting matter in a religious Conference for consideration and practice in these various turns of things, humors, and sentiments. But I have been told, that in Law negatives cannot be proved but by inference from positives, which I doubt will hold you a tugg, tho' your tongue be all teeth and jawbones.

Dyser. *As for this pretended Deputation, I will set before you the true story; and then you, and all men may judge, how candidly our suffering Fathers are dealt with. On the 28 of January 1689 the Bishop of London, and St. Asaph, and some others presented themselves before your mighty K. William with a mournful address in the behalf of our Reverend Fathers then drawing neer to a Civil Suspension, and since more than unciwilly deprived. This was the pretence; but it is reasonable to think, that it was a complotted thing, and that the design was to get their Authorities deputed in such sure hands, as might effectually promote perjury, and the thrusting good men out of their Epistles, &c. and so the Addressers got themselves into their several jurisdictions, &c. This is the real truth of the matter; and is so far from being a deputation of their Authorities, that it doth not imply any Consent, more than what is always unavoidably extorted from every man in the like Circumstances, &c. T. B. pag. 33, 34, 35, &c. Vide.*

Encher. I wonder why a man should raise  
such

such a tempest about what is nothing to the purpose of my discourse, and, besides the greenness of the spite, discovers much ignorance. For the day of suspension was past neer half an year before your 28th. of *January* 89, viz. on the beginning of the precedent *August*; and the time neer drawing on your 28th. of *January* was the Day of Deprivation in the beginning of the following *February*. But the time, that I was speaking of from the admission of their Majesties in *Feb.* 88, till the day of suspension in the *August* following, during which interval these Bishops were in full unsuspended jurisdiction. But in that time upon all incidental occasions of collations, and institutions to Ecclesiastical Promotions, the Oath of present Allegiance was to be ministred by the ordinary and primary Officer of the Bishops, and by no others, while they were present at their Sees, except by their especial Deputation. So that were there no particular instance producible for me, the truth, which I Spake, is self-evident and notorious, that the Oath was administred in all such Cases by the Bishops, or their Deputies. For no person, or power could herein impose any officer upon them, while all the Courie of Ecclesiastical affairs proceeded yet in their names. But I know where deputations were then given, and the Oath administred by those Deputies by virtue of that Deputation. And is it not a very pertinent account to the contrary, to tell me, what was done just before, and then after the day of Deprivation, to disprove what I had said was done by the Bishops before their actual Suspension? And was it not very accurate to mistake the days of Suspension and Deprivation for one and the same, between which there was half a year distance? But there had been no occasion for your reproaching Talent against the Reverend Fathers of  
*London*



*London* and *St. Asaph*, notwithstanding their great merits against Popery in the last Reign, if you had not fool'd in this impertinence for a shew of Contradiction. But when you pervert the kind intentions of that Address to so horrid and calumnious surmises, you ought with grief and repentance to remember, that he that rewardeth evil for good, evil shall never depart from his House.

*Dyscher.* I see one fire kindles another, by the heat my freedom hath cast you into; to cool which I know no present expedient, but intermission of discourse for this time. And besides, the day is at an End, and I must retire to my lodging, and respite the remainder of our debate till to morrow, when with your leave we will renew our Conference, and examine the Case of the Ecclesiastical Change.

*Eucher.* I would not have you take my seldom ardours for uncharitable, nor withdraw upon any such surmise; if you please to repose your self and your passions under my roof this night, you shall be truly and heartily welcome to a thrifty, but friendly Hospitality.

*Dyscher.* I thank you, Sir, but as I am not otherwise very flexible, so my business requires me to take leave, and wish you good Night.

5A

A  
D E B A T E  
ON THE  
*Justice and Piety*  
Of the Present  
CONSTITUTION:  
UNDER  
K. William.

---

The Second Part.

{ The First relating to the *State*,  
{ The Second to the *Church*.

BETWEEN  
*Eucheres* a CONFORMIST,  
AND  
*Dyscheres* a RECUSANT.

---

By *Samuel Hill*, Rector of *Kilmington*,  
Author of *Solomon and Abiathar*.

---

*Pfal. 7. 8. Judge me, O Lord, according to my Righteousness,  
and according to mine Integrity, that is in me.*

---

*Inter utrumq; tene.*

*Obsequium amicos, Veritas Odium Parit.*

---

L O N D O N,  
Printed for *John Everingham*, at the Star in  
*Ludgate-street*, 1696.

—

J

—  
—

D/)

ven  
beg

---

A  
 DEBATE  
 ON THE  
 JUSTICE  
 AND  
 PIETY  
 Of the Present  
 Constitution.

---



---

PART II.

---

*Concerning the Ecclesiastical Change.*

*Dyscher.* **A** Ccording to my yesterdays promise, I am returned to continue on the Debate, which the supervening night interrupted. Let us therefore now begin where we left off, and pursue the matters  
 N 3 of

of our last Conference to their just and utmost issue.

*Eucher.* You are heartily welcom; and so let us closely apply our selves to the Business.

*Dyscher.* Pass we then from the Civil to the Sacred War, in which we are engaged by the contrariety of our Principles. And first I pray you, wherein do you found the just and regular Right of the Ecclesiastical Deprivations?

*Eucher.* This I often and very expressly told you, that as to the merits of Deprivation, they stand in the enormities of your practic principles against the present Civil Constitution, by which you are brought into an incapacity of a public Trust over mens Consciences, which your opinions will sharpen into Civil Seditions, and religious Schisms. And as to the Canonical form of your Deprivations, I placed it in the customary right, the ancient Churches used against Bishops of false principles, by separating from them, and Appealing to other Social Churches, and Bishops for their assistance in new Consecrations; which course our Church has also used against the Recusant Fathers, upon the just Commands of the State.

*Dyscher.* Indeed I do remember now the nature of that Charge you loaded us with, † and it might have made an excellent Argument for Julian, or Dioclesian, by traducing our Bishops as imposturous, and comparing them to Idolaters, for which my friend T. B. hath so sufficiently requited you, (Sec. Lett. pag. 36) that

† *Sel. and Ab.*  
pag. 16, 17.

that you cannot say he is in your Debt, or is so indigent, as to run upon tick for calumnies and slanders.

*Eucher.* I was never skilled in *T. B's* Arts, or Conversations, and do decline the lists, and pretensions to the faculty of evil speaking. I shall only say, that I ever looked on those Fathers to be too rigorously pious in their unhappy Errors in the notions, and rules of *English* Loyalty, tho' I ever acknowledged their undoubted sincerity. But because I was aware, that you exempt all Episcopal Causes, and Authorities from all Civil, and Laic Cognisance in matters, and censures purely Spiritual, therefore to draw you off from that *אמר יידיש*, I put the

Case upon the worst of Crimes, \* *Sol and Ab.*

\* as Apostasie, Heresie, Schism, pag. 19, 20.

&c. and demanded, whether the Clergy and People may desert a Bishop under such pestilential crimes, and impostures, and procure another from Social Bishops? For if they may Canonically do this in such Cases, then perhaps they may canonically do so in other, which tho' not so designedly malignant, yet necessitate an exauktion, tho' founded in meer infirmities, and too pious prejudices, as I explained my self in those very passages, at which, it seems, the gall of *T. B.* is exasperated.

*Dyscher.* Well; I think it not decent for us to draw hard on this invidious subject; let us, if you please, discuss the Canonical forms of your procedure herein, which your party generally defends from pretended precedents of Civil Authorities over the *Jewish* High Priests, and the Practice of Christian Churches in submission to

Imperial Orders, especially the Greek Church under Turkish Changes made in their Patriarchal See. Now the most famous instance among the Jewish High Priest is that of Solomons deprivation of Abiathar. Which tho' you endeavour'd to parallel to our present Case, yet herein I brought you such just exceptions, as neither you, nor all your Party will be able to take off. For if the Crime was nothing like, if there was such a difference between the Constitutions of the Jewish and Christian Churches, if it was a manifest Cession on Abiathar's part, (all which I well proved) then that Instance can by no means come up to this Case. *T. B. Sec. Lett. pag. 36.*

*Eucher.* Tho' I could not deny the force of your reasonings upon this instance, yet have I consulted my friends upon it, as well as you have done upon me. And the chiefest of their senses I will lay before you, to which if you can make any weighty reply, you must not thence conclude a vice, or fault in the Cause; for if I cannot defend it my self, perhaps its proper Patrons may, who as they have singular Opinions, so have they as singular abilities to maintain them.

*Dyscher.* This is a secure Caution for your own Reputation, tho' it betrays an inward suspicion of the Arguments you intend to produce. But however, since it is but just, that no personal defects should prejudice a good Cause, and that one man's Errors should not affect another man's Estimation, I grant you your Demand, and therefore I pray proceed.

*En-*



*Eucher.* Have you not seen the Book entitled, *The Case of Sees Vacant, &c.* whose learned Authors felicity is *Αἰὶν ἈΡΙΣΤΕΥΕΙΝ*. This great man pretends to dissolve all your machins against this grand Precedent for a Lay-Deprivation, and I will exhibite you his Argumentations according to your, and his Or-

der. First then he observes, that \* *this perhaps may be the* \* Case of Sees Vacant, &c. Chap. 2. § 2. *Plea of our Adversaries, in answer to the examples of the Jewish*

*High-Priest, that the Office of a Bishop amongst us is much more Spiritual, than the Office of those High-Priests. To that Plea I answer, that he that considers the true and full import of the Question now before us, will find it to be no other than this, whether a Person, duly invested with an Ecclesiastical Office of God's own Institution and Ordinance, being deposed by the Lay-power, any other can lawfully succeed in that Office? Now as to God's particular Institution and Appointment, whatsoever otherwise the difference may be, (which is needless for us to contend about) it is certain, that the Jewish High-Priests were rather superior than inferior to our Bishops. 'Twas by God himself, and that too in an extraordinary manner, that the Office of the High-Priest was instituted, and it was from God alone that he received his Authority. If therefore a Person was accepted by God as a true and real High-Priest, tho' put into the room of another deposed by Civil Authority, then a Bishop likewise may be truly a Bishop, and accordingly ought to be received, tho' put into the place of a Bishop deposed by that Power. To this I add, that the annual Expiation for the Sins of the whole People was to be performed by the High-Priest. This was the chief*  
of

of the federal Rites of that Religion; and that to which our Saviour's offering himself up a Sacrifice is particularly compared in the Epistle to the Hebrews. And this they did ex opere operato, so that it was of the greatest Consequence to the Jews to have this Divine Institution performed by one appointed to it by God. And tho' no provision was made for Cases of necessity, yet necessity was understood to be a provision for it self. And it is certain, these annual Expiations were accepted of God till our Saviour's days. For that is a certain Consequence of their being still in Covenant with God, since these Expiations were the yearly renewing of that Covenant. Nor can any of the performances of the Christian Priesthood be compared to this, unless we believe the Power of Transubstantiating. These examples of the Jewish High-Priest alone, were there no other to be alledged, would sufficiently warrant our submission to our present Possessors.

*Dyscher.* This Doctrine of that learned Doctors is very new, and amazing in every Sentence of it, as also is his original Principle. But whether it be of sincere Metal, or no, must be tried by the proper Touchstone. First then it is strange, that he shou'd affirm it certain, that the High-Priests are rather Superior to our Bishops as to the Divinity of their Institution. For are not Bishops instituted originally by God himself, and in a manner more extraordinary than that of *Aaron's* Consecration? For this appears indeed in the Levitical Law to be divinely solemn, and glorious, as far as external Pomp and Ceremony could adorn it, and an Oracular Power of Judgment in things Temporal sanctifie him, but yet as the Agent for God in this Consecration was a Servant only, viz. *Moses*, so the Oracular Sanctity was<sup>d</sup>

was not purely Spiritual. But the first Bishops were the Apostles, made so, not by the Hand of a Servant, but the Son of God himself in our own Flesh, ordaining them with an extraordinary Power of Miracles of all kinds, with the insufflation of the Holy Ghost, in order to the remission, and retaining of sins upon the Soul, by the Acts of an Authority to be ratified in Heaven. To them the Sacraments were committed, the Laver of Regeneration, and the Mystery of our Incorporation into Christ, and Participation of his Holy Spirit, besides the glorious Effusion of the Spirit on them at the Feast of *Pentecost*, consecrating them Preachers of the Resurrection of Christ with an amazing Glory in the sight of all Nations gathered together at *Jerusalem*, in a manner more superlatively divine than any the meaner Forms of *Aaron's* Investiture. Besides the Doctor may as well prefer the Institution of the meanest *Levites* to that of the Highest Apostles upon the same grounds, on which he hath so superexalted the *Jewish* Pontiff, who was no more divinely instituted than the lowest Orders of *Levi*, tho' he was to higher Services. Nor is the Doctor less mistaken in his extraordinary Esteem, and Elogy of the Annual Expiation, as more noble than any Episcopal Functions. For notwithstanding all its Solemnities and Operations, yet its highest Excellency was but Typical of that Grace, which was not given by *Moses*, but by Jesus Christ. And all its actual present Energy reached no further than a legal imaginary Cleansing of the Body of the *Jews*, and this only for one Year past, and that only for the securing him in the Temporal benefits promised in that Law. But our Priestly Functions are not merely Typical of

of Grace not yet given, but both commemorative, and exhibitory also of that Grace, which hath already appeared for the Salvation of all Men, and consecrates the Souls and Bodies of Men unto Immortality; not to mention the extraordinary Measure of the Spirit collated in the especial Acts of Episcopal Ordinations. In all which interior Sanctifications, tho' there is no Transubstantiation, yet is there a mystical Union betwixt Christ and his Members by the illuminating Communion of the Holy Spirit. For which truth it is needful that we contend, tho' I confess it ~~was~~ needful for him to contend against it. And yet further, supposing all this had been right, which the Doctor hath dictated, yet here arises another Infelicity in his Logic. For tho' God might admit an intruded High-Priest, yet it does not follow, that Men may admit an intruded Bishop; for can Man pretend to all the Authorities of God? God is indeed superior to all his own Institutions, and may dispense with them, or ratifie Violations of them, as he did the violent Successions in the Kings of *Israel*. But does it follow, that Men can lawfully, without any Divine Dispensation given and granted, admit the Violations of his Laws, and the perverters of that Hierarchy, which he has made organical to the Sanctity and Salvation of his Church? Nay, further yet, the Doctor is very unaccurate in his very State of the Question, which properly is not, whether any Man may lawfully succeed an Ecclesiastic deposed by a Lay-power; for if we grant that there can be any such Lay-deposition, no doubt the Succession may be lawful; but the Question is, whether there can be any Ecclesiastical Deposition inflicted on Spiritual Orders

ders by a Lay-power? This is that we, and our Fathers complain of, that the Lay-powers enact Spiritual Censures of Suspension, and Deprivation, which your Ecclesiastics admit as regular, and valid, which were they so, we should not quarrel at the Successions. This I am sure is our Question, whatsoever that of the *Baroccian* Treatise is; if this differs from ours, then in that respect the Treatise is impertinently adduced in our Case. Besides the Question is not, whether a Person duly invested with an Ecclesiastic Office of God's Institution may not be deposed by any Lay power? For if God in the *Jewish* Church did subject their Ecclesiastics to a Lay-deposition, no doubt in the Nature of the thing it might be lawful. But the Question is, whether first God did so subject the *Jewish* Ecclesiastics to such a Lay-authority? And secondly, supposing that God had so subjected their Ecclesiastics, the next Question is whether he hath in like manner so subjected the Christian Hierarchy? For if there be any specific Difference, or intentional Disparity in the Nature and Purposes of the *Jewish* and *Christian* Religions, if there have been such Changes admitted by God in the Authorities of one, which have not been so conceded upon the Authorities of the other, then the Argument from the *Jewish* doth not conclude upon the *Christian* Hierarchy. And therefore by the Doctor's leave, not only the Divinity of the Institution, but the Nature of the Offices, and the Rules of Tenure, and Succession instituted by God in his Church, are to be considered in this Debate. For to put the matter into a short Theory, I think it fairly possible to conceive, that the *Jewish* Religion, in what it was peculiarly *Jewish*, was only of a carnal Sanctity, in  
Order

Order only to Temporal Fruitions, and so might be under the Conduct of Temporal Powers, that are the Supreme Guardians of all Temporal Enjoyments; but the *Christian* Religion is purely Spiritual, not subordinated to Temporal Ends, and so not under the like Authority of Temporal Powers. Now whatsoever are the civil Authorities about matters Christian, I suppose the Essential Differences of our Religion from the *Jewish*, will bar the Argument for the same Rules of Subjection. And if you please upon another Consultation to propose the matter to the Doctor's second Thoughts, I will be at the pains of repeating my Observations

† Sol. and Ab.  
Pag. 21, 22.

hereupon. † First, that the whole Institution of the Levitical Law was not of a Spiritual, but carnal Sanctity, yielded them by God, somewhat in opposition, and somewhat in conformity to the *Egyptian*, or other foreign Religions, among whom the Priesthood had been long subjected to, and perhaps first instituted by the Scepter. And herein the Supreme Judgments in Civils upon the Law, and Oracular Responses upon Consultations about Peace, War, and Temporal Actions, and Successes, were essential to the Authority of the Pontificate. And yet we find this High-Priest not subject to any ordinary Power, till Kings were also given this People after the manner of the Nations, among whom the Mitre was subject to the Crown. All which put together makes Abiathar's Deprivation by a Temporal Power under that Constitution Legal. But from the beginning it was not so. Then there were Priests who till the Flood had the Government of the World, without any Civil or Military Power; and that Priesthood was in all its Intentions Spiritual. So that when our Saviour came

came not only to restore, but even to refine upon the primitive Rules, he restored the Priesthood from Vassalage, and founded his Hierarchy, not in Princes, but Apostles, not in armed, but in unarmed Powers. But if among the Nations of old the carnal Priesthoods were subject to Arbitrary and Imperial Powers, and God conceded the Jews Kings with such Power after that Gentile manner, the Jewish High-Priests thereupon became Subject, not only to a Judicial, but Imperial Authority, and so legally deprivable at the pleasure of the secular Prince, so far at least, that these Censures might be effectually valid, tho' not always good, and just. And hence all the Changes of the High-Priests, violently and arbitrarily made by heathen Princes in the Jewish Pontificate, seem to be legally and regularly valid, *ex jure Imperii toties quoties*, and so are nothing at all to the Case of an uncanonical Deprivation, or the Doctor's purpose. But our Priesthood has nothing Civil in it, nor is by God subjected to the Arbitrary Empire of Princes, that so we should think our selves obliged to bow down our Faith and Freedom to such feeble Principles of Spiritual Bondage and Pusillanimity.

*Encher.* But a little to interrupt you, did you not deny \* *Zadok's* Title to \* *Sol. & Ab.* be derived from the Kings donation, *pag. 23.* tho' the Scripture expressly affirms, that *K. Solomon* did put *Zadok* the Priest in the room of *Abiathar*? 1 Kings 2. 35. And do you now on a sudden put all the power of disposing that Priesthood in the arbitrary will of their Sovereigns, that to you may oppose the Drs. Principles?

*Dys-*

*Dyscher.* What I delivered then can well consist with my present Sentiments, which I offer not in an itch of contradicting the Doctor, but upon the reasonableness of the thing it self. For in *Solomon's* time the Genealogies were extant, and the due course of Succession obvious; on which account I take it, *Zadok* had before in *David's* time been admitted under *Abiathar* into the communicable Offices of the Pontificate, in order perhaps to the next plenary Succession after the death of *Abiathar*, which Succession now commenced on *Abiathar's* remove before the time preintended, by the actual introduction of him by King *Solomon* into the possession of what he had an antecedent Title to upon the next vacancy, either by the right of Primogeniture, which the ancient *Jews* have owned, from the first Patriarchs, and the Law *Lev.* 16. 32. or upon an ordination by the Ecclesiastic Powers of the Sanhedrin, as men of *Talmudic* learning have conjectured. Now it is certain, that their native Kings of God's own appointment were obliged to keep the Law, and every man's Rights established by it, and the doing otherwise was really sinful and offensive, tho' such unjust acts of Kings had among them the *effectum juris*, as appears in the sentence of *David* between *Ziba* and *Mephibosheth*. If therefore *Solomon* had rejected *Zadok* as well as *Abiathar*, such causeless procedure in my opinion had been unjust, but yet valid, as being not subject to any Tribunal, and presumable for just, and done upon reasonable, although secret Causes. But when the Sovereignty fell into the hands of gentile Princes, not tyed to the *Mosaic* Constitutions, as their native Kings were, and the Genealogies were lost, and the Legal Successors unknown, or absent



sent, the necessity of some high-Priest made the person upon each such vacancy Elective by the Supreme power, or (with the permission thereof) by the priests and people, as appears in the *Maccabæic History*, and *Josephus*. Amongst which instances there is one above all most considerable, viz. that of *Simon*, who was made high-Priest by the *Jews*, and Priest for ever, until there should arise a faithful Prophet, 1 Maccab. 14. 41. to discover the lineal Successor, as also to shew them, what to do with the defiled Stones of the Sanctuary. 1 Maccab. 4. 46. Whence it appears the sense of that people, from the constitution of that Priesthood in *Simon* and his heirs, for want of the true Proprietary Family. First, that there was an absolute necessity of the high-priesthood; Secondly, that it legally belonged to *Aarons* lineal heirs; Thirdly that in want of them, they, if they had freedom, were to elect another Family for that Succession. All which set together discovers *Zadok* to be the next regular Successor to *Abiathar*, since the Scriptures impeach not the King of any irregular and despotic injuries against the Laws of the high Priesthood.

*Eucher.* But what say you to that note of the De that it was of the greatest consequence to the *Jews* to have the annual Expiation performed by one appointed to it by God? Does not this argue the Deposition of such a one null? and yet upon necessity God permitted the *Jews* to own the Successor coming in by mere intrusion.

*Dyscher.* To this I answer, that if God himself allowed the *Jews* to admit such intruders, then it appears, that it was not of the greatest consequence to the *Jews* to have the Expiation performed

med by one, to whom it belonged by the constitution of the Law. For if the Intruders Expiations were effectually acceptable, they did the business as well as the Liturgy of the legal Proprietor. But further, Gods admission of the Intruder after Intrusion takes off his irregularity, ratifies his Title, and vacates that of the ejected, and so is of Gods particular occasional appointment for the time being, tho' not by the original designation of the Law, and so this is nothing to the Drs. Hypothesis, or Cause. And this is in fact the real state of that Case in such Changes. The State Civil first intruded Successors into the room of the expelled, but this not creating any Plenitude, or Sanctity of Title, God made up this defect by giving the Intruders the Spirit of Prophecy, which supervening made them also Gods high-priests to all Sacred, as well as Civil purposes. Which act of Gods was not a mere acknowledgment of their antecedent Authority, but an efficient thereof to all the intents of the Levitic Law, tho' the Dr. would fain persuade us to a contrary notion herein. Yet had it been a mere consequent acknowledgment of their

Priest hood held only by Intrusion,  
 \* *Case of Sees* as \* the Dr. intimates, it had been  
 &c. *Ch. 3. § 3.* nothing to his purpose, because upon the Extinction of the Genealogies, and Ignorance of the lineal Heirs, and the more plenary Subjection therefore of that pontificate to the *Gentile* Sovereigns, who were despotic, and free from all the ordinary Rules, that obliged their native Kings, this had made these Changes of High-Priests in the pontificate (being an office carnal, and temporal even in its Religious acts) formally valid, and authoritative, for that these *Gentile* powers came into the Sovereignty of their native

native Kings, (or perhaps a greater) to whom God at their request had subjected the Hierarchy after the manner of the Nations.

And a great deal of this I told you\* in *\* Sol. & Ab.*  
our last Conference, which no doubt *pag. 24.*

you consulted your Dr. upon, tho' he takes no notice of it. And I then drop'd another note perhaps worth a second Rumen with you, *that those Intrusions, tho' thus admitted by God, were signs of a broken Church and State, hastening to its last Dissolution, and so no just Precedent for the Christian Church to follow, which is to continue to the End of all things, except we must yield to methods of Violation, that lead to our Extinction.* And I leave it to the pious consideration of every Religious Conscience to judge whether those servile Submissions to Imperial violences in the instances of the *Baroccian* Treatise, and the others produced by the Learned Dr. against his Opponents, did not properly lead to the ruin of the Church, into which the *Greeks* from these precedents are fallen under Mahometan powers? all which had been effectually obviated, had the Church stuck to the Laws and Canons of the Christian Hierarchy and Communion against the encroachments of wicked Emperors, against which it is the Duty of all Churches, *obstare principiis*, in contempt of persecutions. Hereby, and hereby alone shall we be able to stifle all *Eraſtian* and *Antichristian* Arts, with which their concomitant persecutions will all cease and sink of Course, when once men see we scorn them. For Shame, Conviction, and Reproach of Conscience, upon the sense of our magnanimous and meek Patience, will naturally quench the Spirit of persecution, and open a glorious liberty and venerable Authority to the Church of God. But our base fears of worldly

greatness on one hand, and the baser affectation of it on the other, hath universally effaced all the glories of Religion and Piety throughout the world, and looks like a gloomy prognostic of Ecclesiastical Ruines and Confusion.

† This is the strain of Dr. Hody's great adversary. But that † Clergy men themselves should court and invite an Hierarchical servitude, and apply the bowstring to the throat of their holy Mother, by Principles contrived to strangle all her Apostolical Powers and Authorities, is such a daring presumption, as needs a greater than the annual Expiation. And if the Dr. should live to see his Principles pursued, by either Civil, or Tyrannical Powers to the arbitrary Subversions of Gods Priests, or if otherwise he shall live to think feelingly of that most holy Authority vested in Bishops by God himself, whose Ambassadors, Vicegerents, and Representatives they are, the contempt of whom affronts even Christ himself, he will not think every violent Intruder, that like a Robber comes not in by the door, to be a regular Messenger of the Lord of Hosts, and that the most audacious Sacrilege hath entitled him to a Divine Character, and consecrated his Authority and Communion. He will then with sighs and unappeasable groans of Spirit anathematize the Instances and design of his Baroecian Treatise; and the ill use of his own infinite reading, and diligence, to recommend the baseness and villanies of degenerate Churches, concerning which at present I leave him and his Adversaries to fight it out at Argument. In the mean time I will only note, that tho' Civil power, or force may put intruding Bishops into the Palaces and Revenues of the Bishopric's by un-canonical Violences, yet they cannot

not be possessed of Spiritual Authorities by any mere secular, or incompetent Power, or Authority, and so we on our part deny the Drs. Intruders the present possessors of the real Episcopacy in the abused Dioceses.

*Eucher.* If the Dr. should hear you talk at this rate, he would not take it very kindly, I believe. But I will make proof of your prowess against him in the famous instance of *Solomon* and *Abiathar*. For the Dr. having asserted *Abiathar* properly deposed by the mere Royal act, and power of *Solomon*, refutes five or six principal opinions to the contrary, and among them yours of Cession with such a contemptuous turn of hand, as exposes it for ridiculous. For he utterly baffles you with the bare repetition of the LXXII. version, on which you seem to lay the greatest stress and force of your opinion. And it is no small impeachment of your understanding to take that as an Argument for your Cause, which it notoriously condemns. Let me therefore clear up your eyes with some of the Doctors Arguments. You therefore say, that \* *King Solomon* \* *Sol. & Ab. pag. 22.* *did not properly and judicially deprive Abiathar of the High Priesthood, but only commanded, or required him to quit it on pain of death.* And to this purpose you quote the words of *Solomon* to *Abiathar* according to the Hebrew, and the LXXII, which latter you paraphrase so as to infer an option in *Abiathar*, *whether he would with dishonour retire from his Office, or suffer death, this latter being in the rightful Power of the King, if Abiathar would not yield in the former.* So that *Abiathars Priesthood determined on his own voluntary Cession, not the Kings Ecclesiastical Censure.*

\* *Case of Sees.* *sure.* Now how does the Dr. cut off this? pag. 18.

\* *In answer to this, saith he, I need but produce the words of the LXXII.* Ἀπὸ τοῦ οὗ εἰς Ἀναδωρεῖς, οὐκ ἔστιν οὐ, ὅτι ἀνὰ θάνατον οὐκ ἐν τῇ ψαύει τῶν, καὶ δα-  
πατῶν οὐ. *This, excepting the words ἐν τῇ ψαύει τῶν, (which are removed from the latter Clause to the antecedent) agrees exactly with the Hebrew, and the natural Sense of these words is no other than what we have in our English Translation, with which all Interpreters agree, Josephus, (as is*

\* *Case of Sees.* *plain* \* *from his words above produced)* pag. 18. *the Chaldee Paraphrast, the Syriac, and the Arabic, and the old Latin Translators, who, all understand the Texts of a Positive and Authoritative ejedment. And that it was a positive command not an Opinion proposed to Abiathar; but an absolute Deprivation, is yet more plain from the words which immediately follow, so Solomon thrust out Abiathar, in the Greek, καὶ ἐξέβαλε Σαλομών τὸν Ἀβιάθαρ &c. So the Doctor.*

*Dyscher.* 'Tis strange, that so Learned a man could fancy this to be an answer, especially since I see not how he can clear himself from inconsistency, or open error. For if it were a positive command to *Abiathar*, as he grants, how could it be an absolute Deprivation, which he asserts? I owned it to be a command as positive and requiring as the Dr. but for that very reason denied it to be a proper Act of Judicial Deprivation, because judicial Sentences are not direct commands on the Offenders to execute their own punishments, but decrees of punishments to be executed by other hands, as in *Joabs* Case, which so apparently differs in Form from this of *Abiathar*. Besides a command of self-execution, as it may actually,

so may it lawfully be disobeyed, and rendered ineffectual, and it is in any such mans choice, whether he will submit to it, or no; and the truth is, no man will yield thereto, but for fear of greater Danger. Now if there had been no other prospect of Danger, *Abiathar* would not have obeyed this so positive command of *Solomon*, and if he had not actually obeyed, the mere command, being frustrate by his neglect, had not been an absolute Deprivation; that then, which in it self was no absolute Deprivation without *Abiathars* consent, and obedience, which was not alone so, as the Dr. contends, and his office became void by Cession, not mere Deprivation. For it is a great mistake in the Dr. to imagine that positive commands destroy Option. For tho' the commands of God upon our Practices are all as absolute as possible, yet are they proposed to our option. Thus, saith God, in his \* *Deuteronomy*, Ch. 30. v. 19. *I set before you life and death, blessing and cursing; therefore chose life, that thou and thy seed may live.* The Law and Gospel, though in the preceptive part they are most properly Laws, yet have also, the nature, and form of a Covenant in them and the punishments inflicted by vertue of them are justified, not only from the nature of the crimes, but our own option. But let us see, whether this command were so positive as these Laws? whether it were so much the declaration of the Kings own will, as a concessive indulgence to the will of *Abiathar*? It is plain then herein K. *Solomon* offered him an easier condition than his crime deserved, tho' the Dr. to serve his Hypothesis extenuates the guilt of his Rebellion. And if this be in fact so, then it seems rather a Concession with a

mixture of Counsel, than a mere austere command of Retirement; for so verbs of the imperative Mood very ordinarily signifie, and *Solomons* kind reflection on his Liturgies, and Sufferings in the days of *David* fairly appear to intend so much. If a Traytor were thus spoken to by his Prince; *never see my face more; get the out of this place, for this shall satisfy me instead of thy forfeited life;* or [else] thou art a dead man even to day, the Traytor would interpret the recession to be a condition of Life, rather than a precept of Civil Duty. And his submission would be rather his choice for himself, than any Service to his King. And certainly he might refuse such offer at his choice and peril, as Malefactors sometimes chose the Gallows rather than Transportation. This option proposed to *Abiathar* in this Form the whole Text in every version sufficiently exhibits; but the Septuagint most expressly in the citra position of these words ἐν τῇ αὐτῇ τῇ αὐτῇ within the first Clause; and comes more up to the *Hebrew* than our Translation; for the *Hebrew* and the Septuagint by [a man of death] intend the sense of a [dead man,] and this signifies rather a Menace, or Sentence of actual death especially when joyned with these words [in this very day] than a mere merit of death, as we render it. But such a Menace with a Concession of voluntary exile to *Anathoth*, must be conditional, if he went not thither, and so admits option. And moreover according to the *Hebrew* Structure of the words we must admit this interpretation from the Drs. own Authorities. For thus *Abraham*, alledged \* by the Dr. out of \* *Case of Seer.* *Areschmeth*, gives his formal sense pag. 21.

upon



upon this place. Solomon commanded Abiathar not to stir a foot from the place assigned him, i. e. Anathot. For otherwise, if he should dare to sally out hence, his Blood should be on his own head, as he had also intimated unto Simei the Son of Gera. And this is manifest from the words of Solomon; but to day I will not slay thee, as if he should say; but I will slay thee on that day, on which thou shalt dare to go from thence any whether. Now if hereupon the Blood was to be on his own head, if he stirred, was it not put to his option, in the sense of *Abravanel*, whether he would confine himself within *Anathot*, or die? And if there were such option in his Continuance, there was so in the first Recession.

\* Vindic. of Depr. Bish. pag. 71. Christ. Com. part. 2. ch. 3. p. 31, 32.

There are \* some of us make this act of *Solomons* a Banishment, and not a proper Deposition; the natural consequence of which Banishment was the debarring him the exercise of the Pontifical Office, which *Abiathar* must be supposed to accept as a Favour, and not insist upon his Right. But then this Exile must be voluntary, and that makes the Cession. And I desire the Dr. if he can, to discover any other form, or importance in the words of *Solomon*. For tho' he says the following words, so *Solomon* *ἐξέβαλε* thrust out *Abiathar*, make it more plainly to appear a mere absolute Deprivation by the alone act of *Solomon*, without any Cession in *Abiathar*, yet he cannot but feel a conviction within himself, that this note is far from Cogent For he well knows, that in all Languages verbs Actives have a great Latitude of signification as to the Forms and Manners of action, and denote as well a moral as a natural influence.

influence. And here the manner of *Solomon's* ejecting *Abiathar* is at full declared moral only by enjoyning him to retire from *Jerusalem* to *Anathoth* on pain of death, and it is in vain to strain *שָׁרַף* and *ἐξέβαλε* to any other conception. And truly since so many Learned men, not concerned in our Case, have had various notions of this procedure, I wonder why the Dr. is so earnest, to force this instance to an absolute Deprivation. Why should he be fond of multiplying examples of Lay, or Invalid Depositions? Are there not too many such injurious Attempts at the fewest, but we must needs rake, and hale in more than really are, to swell the number, and improve the mischief of ill Precedents, only to give colour to an odd and invidious Hypothesis? Is the *Baroccian* trifle *tanti*? Is there so much of the *πὸ δέσιν* in it as to enflame the Church of *England*? I am afraid there is, and nothing hinders the present accension, but dearth of paper, scarcity of money, and the danger of unlicensed Printing. But however I hope I shall stifle it in this instance, in which I only am engaged, let others try, and take their Fortunes in the rest.

*Eucher.* But by your good leave, Sir, you shall not escape so; for your Arguments and the Drs. drawing me contrary ways, I would gladly see my way clear between you, and get me out of the maze, if possible.

*Dyscher.* Then go you on as you think fit.

*Eucher.*

*Eucher.* The Dr. then first of all tells us\* that whatsoever is necessary for the present Peace and Tranquillity of the Church, ought to be made use of, provided it is not in it self Sinful, and the ill Consequences, which may possibly attend it, are either not so mischievous to the Church, or at least not so likely to happen as the Evils we endeavour to avoid. — Upon this Maxim the Antients always prefer'd the Peace and Tranquillity of the Church to all other things, the Essentials of Religion excepted. There was no Custom, or Law of the Church so Sacred, or inviolable, but what they readily sacrificed, (whensoever necessity required) to the Peace and Tranquillity of it. And in proof hereof the Dr. brings you several full Instances, and Authorities, to which I refer you; and on which I demand your Opinion.

*Dyscher.* I may allow every jot of this to be true; but who shall judge for the Churches Practise, concerning the necessity, and the Exigences, the Evils, and the Dangers thus to be balanced?

*Eucher.* For a Province the Metropolitan, and Bishops, and where the Clergy have a Canonical Right, they also are to be admitted. In a single Diocese the Bishop, and his Clergy, especially the Chapters; and if the Laity be concerned, it is fit these Debates be managed in the presence of such standing and communicant Laics, as shall there appear in their own concernments.

*Dyscher.* Can any resolves be valid against the College

Colledge of Bishops in a Provincial Synod, or against the Bishop in a Diocesan Consultation?

*Eacher.* No.

*Dyscher.* Will not the College of Bishops, and the body of the Clergy think it Essential to Christian Religion to preserve the Hierarchy and Authority of the Priests Sacred, and inviolate against all routs and tyrannical confusions? Will not they think a temporal distress, incurred for adherence to the fundamental Laws of Catholic Communion, less hurtful than a general and causeless deturbation of the pious and regular Priests of God Almighty? Can they think it sinless to permit an arbitrary divorce of themselves from their relation to God, and the Souls of their People, and to let in greedy wolves, who covet nothing but the promotions of the Church, and for that Cause will pretend an outside Orthodoxy in all other points? For put the Case in Fact, that once again an O. C. should oppress all by the Sword, and turn out at once all the Bishops and Clergy of this Realm, and bring in another Set into their Places, must the Christian Laity renounce their Canonical relation to the former, and embrace that of the imposed and irregular Ministers? Or let us look up unto God, and enquire within our selves, whether of these will God accept for his Servants? Must God submit to an irresistible Mob, or Hector too? Or must we admit those for Gods Messengers, whom God never sent, and will never own? And must this be yielded by us *toties quoties*, whensoever our too mighty Enemies will sport themselves

themselves upon us with such a form of persecution? I am afraid, if this mysterious Secret had been known in the three first Centuries, the Heathen Powers, when baffled in their other methods of hostility against the Church, would have took up this as the most successful, because most Orthodox, and Christian way of persecution. Now suppose such a design had been projected against the Apostles, to deprive them of the places, and exercise of their Apostleship, and to fill their Room with other Orthodox pretenders, would the Apostles in Council have allowed people to reject them, and receive the intruding Apostles? Or could any intrude, by the help of the Secular Powers, without Sin, and Schism, and Sacrilege? Or would the Apostles have censured these Invaders, and have still maintained their own Functions?

*Encher.* As to the Office, which was peculiar Apostolic, necessity was laid upon them, and wo had been unto them, had they not preached the Gospel, in obedience to God, rather than man. But in that Office, as such, there could be no successor, and so they were to be continued as foundation stones, whereas the Episcopal Office is not peculiarly personal but successive.

*Dyscher.* I will not here except against the validity of this Distinction in these Offices, but will put the Case, as you set it. Suppose the Heathen Powers had passed Sentence on the Apostles, that being permitted the functions distinctly Apostolical, they should not execute their Episcopal Authorities any where, nor be received

received by the Churches as their Bishops, but that others provided by the Heathen Enemies should be vested in their Episcopacy, would the Apostles have quitted their Episcopacy, to which Christ gave them Commission? When *St. Paul* bids the Elders of the *Asian* Church, to take heed to the Flock, of which the Holy Ghost had made them Bishops, *Act* 20. 28. must that Authority, received from the Holy Spirit, have conceded to an enstallment of *Nero*, or *Domitian*? Or would the Holy Ghost have truckled under the persecuting Powers, and have hallowed the Intruders, and deserted those of his former constitution by Apostolic designation? And would the Apostles, and their first successors, with their flocks, have judged persecution of their bodies greater than this of their Spirituals, that so they should concur in this, to avoid the other, and be content to submit to the Conduct and Communion of *Neronian* Bishops, that had dethroned the Apostles of our Blessed Saviour, and by the heathen sword assumed a Spiritual Jurisdiction over them? When *Ignatius* says, that the Bishop, and his Presbytery are to be received as Christ, and his Apostles, with several other earnest and Seraphic Elogies, would he have allowed them to be forsaken at the pleasure of an Heathen Mob, or Tyrant, in exchange for others set up by Idolatrous craft, and force? *Clemens Romanus* would not allow this in a domestic Mob in the Church of *Corinth*, and would he concede it to a Mob of aliens and Pagans?

*Eucher.* I cannot tell how to answer this; but perhaps the Dr. may, when it shall be offered him.

*Dyscher.*

*Dyscher.* In the mean time then I take the Bishops to be the Supreme Ecclesiastic Judges, as well in the dispensation with, as the execution of all secondary Canons, whensoever exigences unforeseen, or more important than those Canons, require their present Relaxation. But such dispensing Power lies not upon the fundamental Rules of their Order and Union, to dissolve their own being, and Authority at the pleasure of the Churches Enemies, for no other motives but those of secular terrour, for mere fear whereof no Bishop can dispense with his union towards his Colleagues, nor Clergy, or People be dispensed with as to the Laws of their subordination in the Ecclesiastic unity.

*Eucher.* Why then you must bring this admission of new Bishops, &c. violently obtruded, upon the violent expulsion of the former, into the Catalogue of Sins, which the Dr. excepts out of his Principle. But he withal denies such admission to be sinful, because they are not against the Law of God, nor do they make us accomplices to the injustice, nor violate the Obligations to our Canonical Obedience, nor is the Ordination of the obtruded a mere nullity.

*Dyscher.* As to the two last Suggestions I shall say nothing to them, if the two former are not provable against the Doctor. For my Canonical Obedience belongs to my proper Bishop, whoever he be, and the Ordination of Anti Bishops is † not censured for a mere Nullity by all our Worthies, tho' it is by our Vindicator. Let us then begin with the first Consideration,

† *Treat. of Ch. Cox.*  
*Part. 3. Ch. 6.*

Consideration, whether, it be not a Sin by the Law of God? I pray how does the Doctor make out the Negative?

*Eucher.* He says, *That the Scripture in our Case is altogether silent. 'Tis true, it bids us be obedient to our Governours, and that Command reaches as well to the Spiritual, as to the Temporal. But when there are two that stand Competitors, and both claim our Obedience; to which of these two our Obedience ought to be paid, it leaves to our Wisdom to determine.*

*Dyscher.* You ought here to observe, that our Question runs about the Duty, or Lawfulness of admitting Intruders, upon an open and contested Expulsion of Right, not where the Title, or Right is dubitable. Now when an Intruder contests for the holding an Ecclesiastical Function against the Rightful Proprietor, that is invalidly and uncanonically thrust out, doth the Law of God leave it to our Wisdom, and not to our Justice to determine, or does it leave it to our Wisdom, to determine according to regular and confessed Justice, or according to irregular and confessed Wrong? For the Law of God requires us to render *summum*; every Man his due, and there is no Wisdom against Right. But the Phrase of leaving things to our Wisdom imports a Liberty undetermined by God, which we may use as we judge expedient, and what God hath so left by the Silence of his Word, is under no Divine Law, and consequently by this Law we are at liberty to take, or choose whether of the two Competitours we in our Wisdom think most convenient to the



the good of the Church, and hereupon as many violent Competitors, as any Illegal Rout shall obtrude against Right, may draw after them so many several Parties, according as they in their Elective Wisdom shall determin. And is this the way of Ecclesiastick Peace, Unity, and Happiness against the danger of exterior Persecutions? For if force shall put in Competitions, I doubt the Competitions must be ended by force; where divided Wisdom cannot fix a determinate Unity. But the Eighth and Tenth Commandments expressly forbid men to take, or covet anothers Right, and leave us no liberty to determin otherwise. So that no man ought to intrude into anothers Bishoprick. For a Deprivation, that is apparently invalid, cuts off no Right, or Title before Rightly, and Authoritatively vested. And he sins whosoever puts himself into possession of such Right, which is canonically permanent in the former Possessor. Had the Emperors pretended a Deprivation of the Apostles Episcopacy, had it been lawful for any other Bishop to have rejected them, or seized their Archiepiscopacy and have subjected the Apostles to their Ecclesiastical Government? Or will the fear of force necessitate a Man to admit an injurious consecration to another Divine Authority? But what shall be done, if no Bishops will confer the Sacred Order on him? What must they be also obliged by a Rout to give the Holy Ghost to qualify the Intruder? If not, then this is what they may refuse to sacrifice to the present secular Tranquillity of the Church. And if the Bishops may refuse to ordain, a man may refuse to be ordained to an Intrusion, because it is an Intrusion: And if so, the whole Church may refuse the Intrusion. But if the Bishops are obliged hereto for fear of force, then even the injured Bishops may be bound to consecrate others into their own in-

juriously deprived Authorities; and so the Apostles had likewise been obliged against their own Divine Commission. But if this be allowed, the result will really be, that the Apostles, and all Bishops Authority either actually ceases, or ought to be quitted by their own Cession, or Concession, at the command of mere Force; but then the producer is not invalid, unjust or uncanonical in the Ejection, and consequently agrees not with the Drs. Hypothesis. But God, that is a God of order, not of confusion, would not permit the deturbation of *Aaron*, nor the Substitution of any Intruder by the Mob, or Princes: *Numb. Ch. 16. Ch. 17.* Nor would the Ancients have confirmed *Novatian*, had he driven away *Cornelius* from the See of *Rome*, upon a presumption that they were left at discretion, or obliged to sacrifice the Laws of the Sacred Union. For they had other Senses, and Wisdom, when they so severely provided against such forcible Entries by the 30th. Canon Apostolick; *If any Bishop, (say's that Holy Canon) making use of worldly Princes, does by them get himself possessed of a Church, let him be Deprived, and Excommunicated; and all that Communicate with him.* Now if necessity vacates the obligations of all Canons, not excepting those of Episcopal Constitutions; how came these Wise Men of the East to make a Canon against irresistible necessity, if the terror of Temporal Persecution be such? And why does *Athanasius*, and other Fathers object this Impiety to the *Arian* Intruders? For if there were no fault in the Intrusion, but only the Arianism, then those Fathers ought only to have upbraided them with the Arianism, not the Intrusion. But if the Fathers justly condemn the Intrusion, then they were not to admit what they righteously censured. And if the Fathers were not to admit Intrusions, neither were the people to admit them,

for

for by so doing they would become accomplices to the Evil, and for that cause are Excommunicate by the said Apostolick Canon. And what I pray has the Doctor to evince the contrary?

Eucher. *If, saith he, a Landlord, be unjustly, and invalidly dispossessed of his Estate by an incompetent Authority; who thinks the Tenant an Accomplice to the injustice, because he pays his Rent to the present Possessor? Should the Clergy refuse to submit to the Bishops in possession, it could only serve to draw down Ruin upon themselves; it cannot restore those whom the State has Deposed. It is not our Submission to the present Possessors, that ejects the former, for they are already irretrievably deposed, and more to this purpose Chap. 1. Pag. 5.*

Dyscher. Here the Dr. hath  
out-pitch'd you two bars length \**Sol. & Ab. p.*  
between Lord and Tenant; 6. 7.

*for \*you assign Rents, and Homage to the actual Landlord, who is visibly Legal, tho' not honestly Rightful; since all Lords, and Tenants must be admitted for such, that are in by Law. But the Dr. requires no Forms, or Formalities of Law to warrant the payment of Rents, or Oath of Fealty. For he \*Case of Sees &c. say's, \*If a Lord be dispos-* p. 6.

*essed of his Mannor by an incompetent Authority, that cannot be resisted, (a Conqueror suppose, or an unlawful Court) who thinks the forsworn for submitting to the new Tenants Possessor? Who makes a difference there between a Competent, and Incompetent Authority? Why does the Oath, which he took to the Rightful Lord, cease to oblige him? 'Tis because, when he took the Oath, he took it only on this Supposition, that the Lord was possessed of the Mannor. The Peace, and Tranquillity of the Publick, and the good of Tenants in general give that Restriction to the Oath. Now here I must set you upon the Dr. who would never allow forcible Entry,*

or Possession to be legal, or valid, and thereupon assert the Resistance of *O. C.* to be just, whereas the Drs. Principles justify the Engagement to his Government against King and House of Lord's. But now for the present I will assume your Notions, and reply upon the Dr. First of all, that upon all Conquests a Publick Settlement gives a legal form of Title; and secondly in a Government full settled there cannot be an Unlawful Court, nor can any Man be ejected by an Incompetent Court, if he will legally except against the Incompetency. Otherwise, if an *Alien* get in by a mere Formal Rout of Robbers, the Tenant owes him no Duty, and pays it on Peril of Repayment, or Penalty to the Legal Proprietor; And Men are always wary upon the Competitions of several pretending Landlords to be secured in their Payments from the other Claimers, from which they know the mere present Possession is not a Legal Security always. But beside, this is not a Parallel Case; nor is there the same parity of Reason in a Real Estate, and the Personal Authority. Here is a Man, that really was, and still asserts himself Christ's Ambassador, Residentiary Vicar, and Vice-gerent; Comes a Tyrant, or a Rout, and violently expells this Ambassador; This is a Crime against the Laws of Nations, and the Rights of Royal Majesty, and is a direct affront to our Lord Christ. But this is not all; This Tyrant, or Rout corrupts a few of other our Lord's Ministers, and they in their Lord's name give Credential Commissions to an impostor set up by these Enemies of our Lord, to supply the defect of the ejected Ambassador; this augments surely, not lessens the insolence, and no Prince whatsoever can connive thereat without severe and vindicative Resentments. Now whether shall the Church own for Christ's Messenger, him that he sent, but others barbarously expelled, or him,

that

that he sent not, but others impudently obtruded? Doth not our Saviour say to them, whom he sent, as his Father sent him, *He that despiseth you, despiseth me, and he that despiseth me, despiseth him that sent me?* And can we admit this contempt upon his Messengers without being Accomplices therein? And what if this is necessary for the Clergy at present to save their promotions? Must we value these before the Divine Laws of the Hierarchy and Communion? Are we thus taught to condemn the World; indeed, as to quit all the Authorities of our Lord's Dignation rather than loose a little Worldly Interest? When our Lord saith, *He that loveth the World, or the things that are in the World more than him, the love of the Father is not in him, nor can he be Christ's Disciple?* But however, if the Clergy be not degenerate, they can preserve their Bishops in the exercise of their Spiritual Authorities, tho' not in the Enjoyment of their Estates and Temporalities. For from what is Spiritual no Secular force can alone Depose them, without Cause, and the concurrence of the Church. Shall outward force force us into Intestine Schism, or Disorder, or can no Division from our Fathers be Schismatical admitted for fear of Temporal force? But one thing more will I ask the Dr. whether we must admit such Deposition, as violent Power pretends to, before a new violent filling of the Sees with others? If not, then are we not to Sacrifice all the Secular Peace, and then the See being not vacant by such pretended Deposition, either the Deposition formally consists in the new Intrusion, and so the Intrusion must on the Drs. Hypothesis be invalid, and so cannot oblige us to admit it; or if the Intrusion be not the Deposition, then the former Bishop, &c. is not Deposed, and the latter, either is not possessed, or two Anti-Bishops can be, and are joyntly possessed of the same Episcopal See, and Authority. But if we

may, or must abide by the pretended Secular Deposition before a new Intruder; then what if the Secular Tyranny will not concede us any Bishop? Must we Sacrifice here too? No, here [the Dr. is tender, and will not Sacrifice, he will have some Bishop, or other by Mr. Mobs favour, whether his Irresistible will, or no. Now then let us reduce this Prudential Principle into Practice, and if you can bear a little teizing, I will discuss its Virtue.

*Eucher.* Proceed.

*Dyscher.* Suppose then upon an Irrecoverable Deposition of Bishops by mere force, the Tyrannick Powers neglect to new furnish the Churches, what course must they take for a Supply?

*Eucher.* Petition those Powers thereunto.

*Dyscher.* What if these Powers, Conscious of this your Drs. Principle, always give fair Promises, but never intend to repair the Breach; how long must the Church wait?

*Eucher.* Till such time as they see no hope of relief, and as long as the Church can forbear, without damage to the Substance of Religion.

*Dyscher.* Well then, suppose the Church can forbear no longer, or the Tyranny absolutely denies to fill the Sees, who shall then provide for the Church?

*Eucher.* The other Undeprived Bishops, and Clergy.

*Dyscher.* But while, or before they go about this the Irresistible Irrecoverably deprives them also, how shall the Cut go then?

*Eucher.* Then the Church-wardens must try what they can do for their People.

*Dyscher.* But let them be Irrecoverably Deposed too, and how then?

*Eucher.* Then the multitude of Christian Churches.

*Dyscher.* Tho' here I could demand, how an  
unor-

unorganized Multitude can Act Uniformly, yet I will not pinch you that way, but what Priests must or can they provide, the Old that are Deprived, or New?

*Eucher.* The old. Case of Sees, &c. pag. 41.

*Dyscher.* What upon their Old Title, or your New Investiture?

*Eucher.* Here I am in a strait; but let it be on their Old Title, what then?

*Dyscher.* Then they may not abide by the pretended Forcible Deposition, till a new Intrusion; nor is that Deposition Irretrievable, as the Dr. sometimes supposes it, for an Irretrievable Deposition is an effectual one, whose effect cannot be vacated, or reversed, while yet at another time the Dr. allows the Deposition to be Invalid, but an Invalid Deposition is null, 'tis no Deposition, whereas an Irretrievable Deposition is a most effectual and real one as I have said.

*Eucher.* Well then, what if, to avoid these difficulties we allow the reinvestiture of the former Priests by a new Title?

*Dyscher.* But they will not accept it, as knowing that their old Title is permanent, and unimpaired by the null pretended Deposition, and consequently, that a pretended new Investiture is null, because needless, and anticipated; besides, we know, that the acts of mere Laity cannot Canonically erect an Hierarchy.

*Eucher.* Let them then procure a new Sett.

*Dyscher.* But where will they find Persons qualified, or willing to enter into such a deposable Office, or to ordain them against Mr. Irresistibles will, who will presently Irretrievably Depose them? To this issue of Absurdity and Contradiction the Drs. Principle must of necessity bring him. And he were better resolve, that the Church may admit an open and utter Dissolution of the Hierarchy, than dwindle it away after this poor

precarious manner of Sophistry. Have you any thing more to alledge from the Doctor?

*Eucher.* Yes, yes; *If the Bishop of a Frontier Town will not own the Authority of a Conqueror, and is therefore Deposed by that Conquerour, I desire to know of you, whether the Clergy of that Town are Perjur'd if they own that Bishop, whom the Conqueror thinks fit to set over them?* Case of Sees p. 6.

*Dycker.* I smell your design well enough to bring me into a snare; but I can answer the Dr. upon your Principles. For if the Conqueror be not settled in Form of Law, all he does is of no Validity, and the Clergy are to have no regard to his violences upon the Bishop, nor his Illegal intrusion of another. But if he upon Conquest hath attained to a Formal Settlement, there is a just Cause, on the Merits of which, the Recusant Bishop at the Command of the Conqueror, may be ejected by the Church, and give way to a Successor of the Conquerors Nomination. But this the Church is obliged to, not for mere wrath, but also for Conscience sake towards the reason of the Cause, and the Law of God, that requires Subjection to humane Constitutions. But the Drs. Hypothesis puts the whole Proceeding against the deprived as unjust, and formally invalid to all intents whatsoever, and makes the act of Deposition simply Secular, without any Concurrence of the Church.

*Eucher.* *If a Bishop should be by the Civil Power Condemned to perpetual and close Imprisonment, or be banished for ever from his Country, so that it is impossible for him to perform the Duties of a Bishop, or should he be carried away Captive, we know not where, or from whence we cannot redeem him;—* Nay, suppose the Banished, the Imprisoned, the Captive Bishop should expressly require them, upon their Duty, or Canonical Oath, never to accept of any other Bishop, as long as he by the common Course of Nature



*Nature may be supposed to be living, or till they be assured he is dead, — what must be done in such Cases, &c?* Case of Sees, pag. 6, 7.

*Dyscher.* The Church must abide by the Government of their Clergy in such Cases; and in all Cases, where the peculiar Office of the Bishops is wanting apply to other Bishops for their Succour, and Aid.

*Encher.* But what if the Diocese be so fet, or restrained, that the Church cannot have recourse to other Bishops, (as suppose in the Isle of Man) or any other impediments preclude a Capacity of such Negotiations with other Bishops, who can bear such an hard saying, that the Church must not admit a new Bishop of her own, when she may, meerly because the ejected Bishop, with whom we can have no correspondence, is ill natur'd, and grudges that benefit to the Church?

*Dyscher.* I am hard pressed here; I pray how will you steer in this dangerous difficulty, between the quick Sands that lie on both sides, on the Drs. loose Principles for your Cause, and the strict Rules of ours?

*Encher.* Why truly I must so far concur with the Dr. as to grant, that the Church has a Liberty to admit a new Bishop in such Cases, if he be otherwise Canonically qualified.

*Dyscher.* Does Banishment, Imprisonment, or Captivity, cutting off all capacity of commerce, vacate the See, and exauctorate the injured Bishop?

*Encher.* It does render the See actually empty for the time, but yet I will allow you, that the Bishop is not exauctorated, but that upon removal of the impediments, his Authority would immediately exert it self, and run on in its old Channel, and ought to be received on the Original Title, as being still Bishop of his Diocese, except his supposed prohibition of, another substitute

stitute Bishop forfeits his Right, Title, and Authority.

*Dyscher.* This is odd Doctrine; If the Bishop does not forbid the Church to substitute another, which not to do may be presumed for a Cession, then he still continues Bishop; if he forbids a Substitution, then he quits it by forfeiture; I pray how can you make out these Paradoxes?

*Eucher.* Thus; if a Bishop shall enjoyn Orders to the Dissolution of Discipline, he *ipso facto* becomes irregular, and forfeits. And such would be the effect of this supposed Prohibition of a Substitute. But if he admits a Substitute upon the necessity of Discipline not otherwise to be supported, he still continues Bishop, and is to be received for such in full Authority immediately upon his enlargement, and recovery.

*Dyscher.* This does not extricate, but involve, and double the Paradox. For thus there may be two Bishops of the same See at once, and a Successor to a present Proprietary; which Successor is to be again thrust out as uncanonical, and no Bishop of such Diocese on the return of the former.

*Eucher.* Two Bishops there then will be at the same time of one and the same See, though not in it. But the second will not be a proper Successor, but a Sagan, or Vicar to the absent, and so to give place to the returning Proprietary, till the See shall become wholly vacant of the Proprietary Bishop by death, or otherwise, except there be some other exceptive provision in such extraordinary Cases. For according to this Rule of Prudence the Church of *Jerusalem*

proceeded in the case of *Narcissus* \* *Case of Sees, &c.*

\* alledged by the Dr. Chap. 1. pag. 6.

which is much like this sup-

posed Case before us. Oppressed with calumnious Perjuries *Narcissus* retires from his See to deserts,

deserts, and unknown Fields for many years, not plainly renouncing his Station however. Upon this the Prelates of the bordering Churches fill his Place with other Successors, in all three, before his return, never undoubtedly designing to exclude *Narcissus*, if he should return, whose Glory and Innocency Heaven itself had signally vindicated. But so it happen'd, that after the death of the third intermediate Bishop *Gordius*, *Narcissus* returns, and the Church requires him to resume the Throne Episcopal, not on a new, but his old Title. But because through the great infirmities of his old Age he could not bear the fatigue of his Office, it was agreed, that one *Alexander* should be his Sagan, or Partner in that Prelacy, the original Authority of *Narcissus* being thus derived to *Alexander*, and by him to be administered in ease to *Narcissus*.

*Dyscher*. But this does no Service in our case; for our former Proprietaries are ejected, and others set in to exclude them, though present, and claiming their proper Relation to their Dioceses. Nor does this account of yours reach the design of those instances given by the Dr. in which the Intruders asserted a Title against the unjustly and invalidly expelled Proprietors.

*Eucher*. I am not yet come to those Instances; I only tell you what may be done in the Case of a Banished, Deprived, or Captive Bishop hereby rendred incapable of his Functions, which I here propos'd from the Dr. though I confess to you as a Friend, that this Plea, and Case of the Drs. as well as all his Lay-instances throughout his Book, are far more Impertinent to our present Case, than (as he says) your Vindicators discourses were to the Baroccian Hypothesis.

*Dyscher*. This is pretty Inadvertency, if you can make it out.

*Eucher*. Why, look ye; Deprivation, or Deposition

position, in our Sense, and Case, is the Divorce, or Dissolution of the spiritual Relation between Priest and People, but Banishment, Imprisonment, and Captivity makes no such divorce; And this the Dr. Fundamentally grants in supposing his Lay-ejections to be invalid Deprivations, or Depositions; and though he generally calls these Lay-ejections, and Banishments by the name of Depositions, yet upon a cogent pinch he grants, that Banishment from a Bishoprick, though inflicted on purpose to part the Bishop from his people, is no Deposition; for

† *Case of Sees, &c.* so he † expressly asserts of S. Ch. 4. pag. 56.

*Hilary, that he was never Deposed, but only Banished,* and al-

lows him to be still actual Bishop of *Poitiers*, since there was no other Orthodox Bishop there. Now our enquiry, as the Dr. sets it, is of an unjust and invalid Deposition by a Lay-power, or Irresistible Force, and the Admission of a Successor consequent thereupon. Now if Banishment (and by parity of Reason Imprisonment, and Captivity) is not a Deposition, how are these pertinently alledged for such in our Question? Then again, if upon Banishment the Deposition consists in the intrusion of another, and this be unjust, and invalid, how is the intruded a right Successor to whom the Churches obedience is due? Or if he be not right, (*i. e.* Canonical) how is this obedience due? Must we pay obedience where it is not due? Or is there any due, where there is no form of Right? Or is there any form of Right created by an Act not only unjust, but even invalid, and consequently null? Then again, every one of the Drs. instances of Lay-deprivations are nothing but meer Banishments, and Imprisonments, and so no Depositions from their Spiritual Powers or Relations, as he confesses in *St. Hilary's* case; though elsewhere he commonly

ly calls them Depositions without thinking of it. But if the Depositions consist in the consequent intrusions, these being invalid, as well as unjust, oblige to nothing, but Repentance and Restitution. And so his infinite expence of Reading and Criticism is all at once unfortunately thrown away. But there is one thing farther considerable in the last Question of the Dr. and that is the impossibility of performing the Episcopal Functions, consequent to these Lay-Banishments and Imprisonments. For if this incapacity gives those violences the forms of Depositions, then it appears not, that all the Lay-instances produced by the Dr. were Depositions; and perhaps none of them, since the Episcopal conduct might be carried on by Communicatory Letters to the Dioceses, and other Social Bishops to act for them, according to the constant practice of Exiled and Imprisoned Bishops from the days of the Apostles. But if the persecution be so straight as to preclude all capacity of such Pastoral care, a new Bishop may be set to supply the defect, but not to exclude the Right of the ejected, to govern for him, not against him, and to resign upon the return of the Proprietor. On this account it must be resolved how the ejected Bishops retaining their Claim or Right, mentioned by the Dr. or his Baroccian Treatise, owned those Orthodox Persons that filled their places in their Absence.

Thus \* *Briccius* might \* *Case of Sees, &c.*  
call *Armentius* Brother, and pag. 59.

Bishop of *Tours*, while he was returning to lay *Armentius* aside, upon a Presumption that *Armentius* never set up against him nor would oppose his Restitution, if yet there be any credit due to the Story.

On some such confidence \* *Elias* \* *Case of, &c. Ch.*  
might Communicate with *John*, 7. pag. 82. 90. &c.  
and his Communicants at *Jeru*

*salem,*

*salem*, not only because *John* was Orthodox, but because he kept not the See from *Elias* as a Rival, or Anti-Bishop, but only continued that Care for the Church during *Elias*'s Incapacity. For their Mutual Friendship is a demonstration, that *John* did not still oppose *Elias*; and *Elias* ratified *John*'s Present Government by his Communion; which was, if not a Cession, as your Vindicator conceived, yet a Valid Concession for the time being. For tho' *John* was one of *Elias*'s Expellers, yet after *John* had opposed, and baffled the Emperor, and therein seconded *Elias*'s Cause: This, with the Mediation of those Martial Monks *Theodosius* and *Sabas*, might cool all *Elias*'s former Resentments, and procure his Peace, and Ratification of *John*'s Government. That *Elias* was not obliged by Canon to acquiesce is manifest, not only from many Canons to the contrary, but the practice of many others produced by the Dr. who endeavoured to recover against the Orthodox Intruder received by the Church on the Drs. Fundamental Law of Necessity. If then *Elias* acquiesced not by Law, but Choice, this made a Ratifying Concession to *John*'s Government, and hereupon *Theodosius* and *Sabas* might well Communicate with both, since they both held Communion one with the other, either by the Cession, or Concession of *Elias*. But here a threv'd hard Question Intervenes; If the Church always owned the Orthodox Possessor of anothers Chair without Schism, how could the Orthodox ejected Bishop rival and contest the Intruded Possessor without Schism or injury done in challenging his Right, while yet his Right would be taken for quitted; if he should not challenge it? Now during the Challenge he must renounce the Possessor, and all Communion with him as such, whom yet the whole Church according to the Dr. lawfully receives for the Diocesan: Now if the  
Elected

Ejected will be in the Communion of the whole Church, they must own their Anti-Bishops, and so it will be their Duty to loose their Right to Intruders, or if they may refuse the Anti-Bishops without Fault, how can others lawfully own them, and their Possession of other Men's Sees never validly vacated? Methinks Apparent and Confessed Right should obtain in Judgment against possession manifestly without Right; nor is it a Rule of Conscience, or Religious Peace, but Carnal Fear, and base Interest, that inclines to the contrary. Hereupon I conclude, that the best Title, *John* had to the Churches Communion, was from the Concession of *Elias*. And your Vindicator had great reason to suppose something done on *Elias's* part, to the confirming of *John's* Prelacy; from the Communion, that is asserted to have been between them. For being apparently no Anti-Bishops, the Natural and Legal Presumption must be, that *Elias* allowed him, and that was a Canonical ground for the Churches regular Communion with him, tho' before there seems none, except *Elias* had been removed beyond all Capacity of Communion, which it's plain he was not. So then it is not the Substitution of a New Bishop in the Chair of another, utterly latent, or removed from all possible Communication, that makes a Schism, but when one is set up to Exclude the other, (Violently and Invalidly Ejected) from the Administration of his Office, either at present, or hereafter, while in a Capacity, and Readiness to perform his Functions. Thus Pope *Martin*, whom the Dr. hath also instanced, pronounces it Unlawful for the Church of *Rome* to admit another Bishop during his Life, and *Spalatensis* alledges that Authority and Rule for Canonical and Good. Yet when he was Condemned at *Constantinople*, and the Church of *Rome* had taken him for dead, and  
so

so chose *Eugenius*, no wonder that Pope *Martin*, receiving News of this before his death, prayed for *Eugenius* thus chosen, because he knew the *Romans* had not set him up as an Anti-Bishop, and could not doubt, had his return been possible, but that his Church, and *Eugenius* too, would have joyfully re-inthroned him. But in cases of Competition, as in the *Ignatian* and *Photian* War, if the Church or the Competitors can be on both sides excused from Schism, upon every turn and invalid Act of Lay-Power, against which a good and valid Title is still asserted, while the people turn to both sides with the Secular Wind, *ὡς ἐπὶ ἐν ἑαυτοῖς ἄμ;* And I believe nobody can make it out. And I think we must make the Proceedings of the Church at the best to follow the pretended measures of Right and Rule, or condemn them for wrong in every Instance produced by the Dr.

*Dyscher.* What course then will you take to excuse the Churches, in admitting and maintaining Anti-Bishops against the Invalidly ejected Proprietors still claiming?

*Eucher.* Upon what particular Motives they did Act, it is impossible for me to determine; but I think I can set such Rules, according to which they might act validly, not otherwise. First then I admit, that all the Imperial Ejections were not proper Depositions, but either Antecedents, or Consequents of them. Now if the standing Councils of the Churches find the Bishop wickedly ejected by the Secular Arm, or without any declared Cause, they ought not to admit any other Bishop, without the consent of, and during a capacity of Communication with the Ejected, or his Deputies. But upon defect of such Capacity they may admit an Orthodox Bishop, as a Sagan, not as an Anti-Bishop to the absent, to resign and concede at his return. Much of this



this *Photius* engaged to the *Ignatians* under his hand, (if the *Drs. Metrophanes* be true in this particular,)\* that

† Case of, &c. Ch. 14. Pag. 148.

he would carry himself toward *Ignatius* as towards an unblamable Patriarch, and neither spake any thing against himself, nor approve of any that should do so. But being hereupon received, tis said, he took away the Paper he had so Subscribed, and then depoted *Ignatius*. He was therefore sensible, that such a Subscription would have engaged him to Resign, whenever *Ignatius* should return, It being a Contract not to stand as Anti-Patriarch against *Ignatius*. But in Case the Expulsion be for Notorious Villany incompatible with Episcopal Sanctity, then, even without a Synedical Sentence, the Councils of the Church may establish another Successor, as in

the Case of † *Callinicus* Patriarch of *Constantinople*, banished to *Rome* for open and effectual High-Treason; in

† *Vindic. of Dep. B. th. Pag. 71. &c. Case of Sees, &c.*

whose stead *Cyrus* was admitted. And here your Vindicator acknowledges, there was no need of a Synod to deprive him upon the notoriety and heinousness of the Guilt, and the Dr. rightly observes against him, that there was no need of a presumed Cession in *Callinicus*, but then the Church, if she acted Piously, look'd on more than bare possession in *Cyrus*, namely to the ill Merits, as well as Fortunes of *Callinicus*, as the just ground of quitting him for *Cyrus*. Indubitable charges of the Secular Powers removing the impeached Prelate beyond the reach of Ecclesiastical Communication, the standing Council of the Church may admit another for the present, reserving the Cause of the Ejected to Ecclesiastical Cognisance, whensoever there shall be opportunity; and Equity binds the Ejected to admit these Ec-

Q

clesi-

ecclesiastical procedures, because just and necessary. And with this Design the Councils of the Church might admit new Bishops, when the former had fallen under Imperial, or Civil Condemnations to remote Exiles, for Crimes charged on them by the solemn Credit or Averment of the Secular Powers, to whose Proceedings and Declarations in the mean time we owe a just Deference and Veneration. And if in all those the Drs. Instances, wherein heinous crimes are pretended as the true causes of the Exiles, the Churches had admitted the new Ones with such a Reservation of trying the Causes perfectly upon a fair opportunity, I think their new Admissions had been not only valid, but just too, and a charitable Presumption of such intention in the Churches Admissions of the New Bishops, will I believe excuse those Admissions at our Tribunal from Schism and Invalidity. But when all comes to all, none of this Hypothesis, these Questions, or instances are applicable to our Case; for our ejected Fathers are not removed from the free presence of, and Communication with their Diocesses; so that they need not any other Substitute for want of their Presence and Authority, from whom, if there were no other Cause or Reason, we could not recede without their Concession.

And this is concludible from

† Case of &c. Ch. 4.  
§. 1. Pag. 41.

† the Drs. own words, and instances. For, *said he, should our Magistrates, like the Persecu-*

*tors of those Ages, viz. the three first centuries endeavour to destroy Christianity, by depriving us of our Bishops, and by suffering none to be substituted in their Rooms, then those Bishops, would be our own Bishops, and as such we should still adhere to them;* As the Church of Antioch stuck to Eusebians ejected by an Heretical Synod, and banished by the Emperour, till the

† Case of Sees, &c.  
Ch. 4. §. 1. Pag. 41.

the

the Catholick Bishop *Meletius* was settled in his See, upon which *Eustathius* quitted his Episcopal Care and Government, and not before. Now from hence 'tis plain, that Civil Separations are not real Deprivations, or Depositions, and that the Admission of an Heretical Intruder thereupon does not create a Deprivation of a Catholick Bishop from his Church. So that all the Question remaining herein is, whether the Introduction of an Orthodox Bishop be an effectual Deprivation? For if so, the Orthodox Church, introducing the New Orthodox Bishop, must intend to deprive the former Good, Persecuted, Confessor Bishop, but who can think, that an Orthodox Church will, or can do this according to the Rules of Orthodoxy? But, then again this is no Lay-Deprivation, and yet on the Drs. Hypothesis must be Unjust, Invalid, and Uncanonical, and yet, I pray, must it be done by an Orthodox Church according to the Rules of Orthodoxy? Even so it must be according to the Drs. but not the Catholick Principles. But if the Church by the introduction of a New does not intend to deprive the Old, then the Old Bishops Title and Relation to his Church is still retained, and permanent, and the New is no Anti-Bishop to the Old, but must resign upon the return of the former, except it be otherwise Canonically contracted. And in the Drs. own instance, who can think, that the Catholick Church in *Antioch* by admitting *Meletius* did depose *Eustathius*, to whom they ever had so firmly adhered during all the *Arian* Persecution? It must therefore be resolved, that *Eustathius* directed, or admitted the Introduction of *Meletius*, in that hereupon he omitted, and quitted his Episcopal Care; or that the Church admitted him not against *Eustathius* but in his stead, until his Return, and Restoration, upon which *Eustathius* wholly Resigned,

signed, or discontinued, and gave place. And so the same may be well judged † in  
 † *Case of, Sec. Ch. 17.* the Succession of *Macedonius* to *Euphemius* in the Constantinopolitan Patriarchate, even as the *Case* is Stated by the Dr. especially since *Macedonius*, besides other good Offices, would not wear his *Omophorion* in the presence of *Euphemius*, shewing thereby, that he neither was, nor would be an Anti-bishop to him, tho' *Euphemius* in begging his Protection, in his way to Exile seems to have conceded without Remonstrance, that *Macedonius* should supply the Church for him during his Exile, but not against him; upon which joynt accord they continued faithful Friends even unto Death. And hence well might those, who refused to subscribe *Euphemius's* Condemnation, fairly Communicate with *Macedonius*, as being no Anti-bishop to *Euphemius*, but in perfect Charity and Communion with him. All which procedures are grounded on that Maxim owned by St. *Chrysostom*, that the Church cannot be (*viz.* well) without a Bishop. So that it is the actual want of a Bishop for the time being that Justifies new Admissions, not to exclude, but to supply the defect of the Proprietor till his Recovery from Banishment, or Bondage. And to apply the Drs. Concession to our present State, If their Majesties had not filled the Sees with New Bishops, the Old ones had been our Bishops still; and then how were the Sees before vacant by the Statute of Lay-Deprivation? And how long should we have waited their Majesties leisure, had they continued longer the Diocese in Suspence, before the Dr. would have remonstrated for the Old Bishops? Or how shall the Church know, when their King's design to destroy the Church by not yielding it Bishops, while the crafty Persecution is carried on under

der false promises, and fair pretences of care for the Churches Interest? These are pretty hard Morsels to digest, and I leave it to the more judicious to resolve them.

*Dyscher.* But to what Rules can you reduce the usage of the *Greek Church* in admitting new Patriarch's erected by the Grand Seignior upon his Arbitrary Dethroning a former, who yet is present to his People, and capable of his Pastoral Care? For the Dr. puts us this strict Question; † *whether an ejected Patriarch of Constantinople would do well,* † *Case of, &c. Ch. 15. Pag. 174. 175.*

*if after he was deposed, he should separate from the Communion of his Successor, and make a Division in the Church?* To this he adds another Question; *It is certain, saith he, that when the Patriarch of Constantinople is deposed by the Sultan, the Church submits immediately to the Successor without asking the Old Patriarch leave. — Is now the Greek Church herein Schismatical? If the ejected Patriarch should actually lay claim to his See, would the Church be Schismatical for adhering to the present Possessor?*

*Eucher.* In this point I find the Dr. and some of you very well agreed, to excuse, and in a manner to justify this Submission in the Greek Church. This the Dr. observes in one of his Opponents, and so have you and I in your learned Author of Christian Communion. But herein my opinion is, that the whole Greek Church was culpable in the first Admission of such Changes, and stil is so in continuing such submission, whic has nothing in it to Excuse it but fear of persecution. It is true, it would be odd for one single Patriarch to refuse such Ejection against the temper and humour of the whole Church, especially if himself were advanced so upon the Imperial Expulsion of his Predecessor; for if a whole Church will perversely urge her Bishop to yield

to violence, and lay down his Mitre, I think in many Cases he may do well to yield to an unjust and inflexible importunity, as *Gregory Nazianzen* did; but the Churches are to blame, that do not animate and maintain their Bishops against such Tyrannies in their Spiritual Authorities, which ought not to lacquey it to Simoniackal and barbarous insolences. For since the Greek Churches are, as to their Temporal Condition, in the same State with the Primitive, they ought to do as the Primitive Church would have bravely done, and to follow the rules of Succession, that were observed in those purest Ages. It is true, the whole Greek Church, having by a long and consuetudinary consent and prescription made this Usage to themselves, as it were Canonical, would not seem Schismatical in neglecting the claim of an Ejected Patriarch, because he himself in his first advancement came in by the pleasure of the Sultan, and assumed the Patriarchate under the same servile Terms and Conditions. And therefore that first Consent, tho' faulty, and vicious, incapacitates him to reform, and reverse the ill custom singly by himself, without the concurrence of his Episcopal Colleagues, or the general Councils of that Church; at least he cannot condemn them as Schismatical in this Customary Servility. And here I must put this Quære, whether this Submission of the Greek Church to such Changes be simply Sinful? If so, then the Dr. ought not to prescribe from them, as exemplary, or excusable. If not sinful, then Custom, and Ecclesiastical Consent hath made those deprivations and successions Valid, and Canonical, and then they are alien to the Drs. Hypothesis, and are impertinently alledged. But as if Case of the Greek Church now actually stands, the ejected Patriarch making no challenges, 'tis no domestick Schism within themselves, tho' it be a wretched Dehonestation of that Churches Sanctity.

Sanctity. And so, if, as the Dr. confesses, *these Patriarchs, do not merit by their Learning, or Wisdom to be guides, and patterns to the Bishops of England*, he should not urge us with their corrupt and profane examples, to sacrifice our Hierarchies to the arbitrary lusts of Secular Powers. For if it be not a formal Schism in the Greek, 'tis a radical vice and corruption there, and which for that reason we are to oppose, and prevent here against all imprudent perils, that it may not become an irremediable and common Evil.

*Dyscher.* You are a strange thing of a man; you will neither side with us, nor our Adversaries, but pick out between us matters of dislike, as if you would be of neither interest, but a certain mixt kind of *συνμίστρον*; but this is the ready way to lose your self with both Parties.

*Encher.* I have long since learned from the Apostle, that if in such Cases of Conscience *I should seek to please men, I should not be the servant of Christ*. And truly you on your part, and those of the *Baroccian* Principles seem to me to be equally in such extremes, as are destructive to the true happiness and integrity of the Church. By which means you have the advantage of reproaching each other for your manifest absurdities, which the defence of your principles hurries you into, and thus are in a fair way for an eternal wrangle, but never like to settle in a grave and impartial temper, ease, or satisfaction. And therefore I, that have been so long a seeker between you, and but little the Wiser amidst your contentions, and so must make the best use and practice of my own Sentiments, till I can experience between you others more improving or convincing.

*Dyscher.* I have been very calm all this while we have been upon the Speculation of the *Baroccian* hypothesis; But now you remind me of your own Principles, and Senses, I fear I shall fall into

the Spirit of T. B. again, and not use you very partially in some of my Reflexions.

*Eucher.* I am sensible by experience of your infirmity; And since good natur'd Men are sometimes passionate, I know how to bear as well as to correct a little rudeness. I pray, good Brother, let me know, what 'tis now that begins to provoke your choler?

*Dyscher.* *When you had spent a great many Arguments drawn out with much Pomp and Ostentation, being basled in them you grow weary with struggling, and fairly give up all, and acknow-*

† Sol. & ab. pag. 27.  
29.

Charge, by any Divine Law, primitive Canon, or Prescription. This is as full as can be worded against the Power of the State to deprive Bishops. Now see, how you come about again in the very next words; Yet such an Act, received, and admitted by the Church, may from her concurrence have a just and legal Effect. And then upon this Notion the Statute of Deprivation *ipso facto* must be taken as a Law upon the Church to reject the Recusants totally from their Stations. Here you will not have the Deprivation to proceed from the Act of the State alone, but, to save some Honour to the Clergy, you make their Deprivation valid by their Concurrence to the Act of Deprivation.

ledg that † an Act of State Christian cannot alone vacate a Spiritual Charge, and that the consent, publick and actual Concurrence of the Church is necessary to give an Ecclesiastical Effect to Civil Ordinances in Matters of the Church. Now this Concession overthrows your whole Cause, and being placed after the main Body of your Arguments, is it self an Argument, that you had little faith in them. — So then our Bishops, being never Canonically Deprived, are the yet proper Bishops of their Sees. — But you come like a Spiritual Jugler, and persuade us, that this hath been Canonically done; For the Church, say you, ought to empty the Sees of such Incumbents, that are dangerous to the Civil State. But, Sir, must the Church cast out her Bishops, as oft as they will not comply



*comply with Usurpers, &c. But you say, this was done by Acts of Separation properly Ecclesiastical, the Dean and Chapter of the Metropolitane Church taking the Jurisdiction, till the Chapter elect, and Bishops consecrate another.---*  
*But, Sir, you cannot but know, that the Dean and Chapter have no Jurisdiction over their Metropolitane, and the See must be vacant, before they can proceed to Election.* T. B. Sect. Pag. 37. 38.

to it, and acknowledge it. And you would make a Protestation against Fact, that their Concurrence was necessary to it, that themselves did not pretend, nor dare they do it to this day. — It is certain the Parliament thought their own Authority sufficient to deprive the Bishops, and did not ask, or think they needed the Concurrence of the Clergy to make their Act valid. On the contrary no Clergy-men have dared to dispute it, but those, who are deprived. And for others to imagine to come in by their Concurrence into a share of the Authority, is like the fly on a Wheel of the Chariot, that thought he contributed to the dust that was raised, for he too gave his concurrence. It is possible such Men as you should not see how contemptible it renders them, to pretend to an Authority they dare not avow? And upon this Foundation to raise Arguments to justify their proceedings, which they cannot maintain any other way! For these Men to deny themselves to be *Erastians*! or ever to name any Ecclesiastical Authority! I had almost said to call them a Church! Or to † *Sol. &c. Ab. Pag. 29.* speak as † you do, that the Church ought not to admit Deprivations on improper or unreasonable Demands! As if the Parliament did request it from the Convocation, or left it to their admitting, or not admitting! As if they durst dispute the validity of an Act of Parliament for want of their Concurrence! As if any of them durst let such a word come out of their Mouth! Behold the Ghost, the Echo of a Church! &c. M. S. Reflex.

*Eucher.*

*Eucher.* I have heard with much patience, yea pleasure, all your Noble strains of Rhetoric, and need only say, "*If I have spoken evil, bare witness to the evil, but if well, why smitest thou me?*" For if the Deprived assert the Churches Concurrence necessary to give Acts of State an Ecclesiastical Effect, and I grant it, what Cause have you to fly in my face for even that very Concession? But for you to upbraid me with my Candour, who are so heedless in attending to my words, as to rake, or set them off in other Senses, than rationally can be fixed on them in their clear account of this Concurrence, is neither very courteous, nor prudential. Let us therefore again look over these oversights, and see whether we can come again to our selves. First then I never said, that the Concurrence of the Church was necessary, either to make an Act of Parliament, or to make it valid in Ecclesiasticals, and particularly in Acts of Deprivation; But I admitted your Principle so far, and no further, that her Concurrence is necessary to give Statutes an Ecclesiastical Effect, and Issue. For an Act of Parliament may justly require of the Church some certain Ecclesiastical proceedings, without any joyn't Session, or Consultation of the Church. And such Acts shall be just and valid of themselves to oblige the Conscience of the Church to obedience, or executive Concurrence. As suppose, an Act of Parliament, repealing all the Statutes of Premunire, which cramp the liberties of the Church in the Episcopal Successions, and Synodical Consultations for a perfect reformation to a Primitive purity, should consequently require our Bishops, or Convocations to proceed upon such relaxation to provide, and execute better rules of Discipline on the morals, and duties of the Christian Church under their care, and to renew the *Commercium formatarum* with foreign Churches  
for

for a general Restitution of Piety and Order to its Primitive State, such a Law I think would valiolly oblige the Church to Concurrence, without which however actually given it could not have its Ecclesiastical Effect. When King *Joash* commanded the Priests to employ the sacred Money to the reparation of the Lords House, it was a valid command to oblige; but while the Priests neglected it, it had no Sacred effect. *2 King 12.* So when *Moses* spake unto *Aaron*, *Eleazar*, and *Ithamar* to eat the meat offering and heave shoulder according to set Rules, the precept was very valid, yet because of their actual Omission it wanted an Ecclesiastical Effect, *Lev. 10.* So when a Statute of Deprivation requires the Church to eject Recusants from their Stations, if the cause be necessary, or just, the Statute is valid to oblige the Conscience of the Church to an executive and concurrent obedience, yet if the Church will by no means yield to such command of the State, whether just or unjust, valid or invalid in its obligatory intentions, it cannot actually pass into an Ecclesiastical Effect, and Issue, and all, that the Civil Powers can do on the refusal, is to subject the Church to temporal Punishments. Nay, in the same Genus of Civil Government the Decrees and Judgments of the Kings Courts, notwithstanding their perfect justice and validity, cannot have their Civil Effect, if the subordinate officers neglect, or refuse to execute them. Tis true, there is a difference between the Civil obligations of Under-Officers to their Superiors in Secular Authorities, and those of the Church to the Civil Powers in matters Ecclesiastical. For that Civil Officers are obliged only to observe the Legal forms of process in the Orders of their Superiors, and are not tied to enquire into the inner justice of those Orders. But the Church, when under any Laws,  
or

or Commands of the State, may and ought to judge for her self, and her conscience toward God, Whether the matters, enjoyned her by the Laws, be consistent with the Laws and Principles of Christianity, and the Churches fundamental Constitution, against which she is never to admit them to an Ecclesiastical Effect, but must bear the penal Consequences with all meeknes and resignation. And this is not only the Right and Duty of all Churches, as sacred Corporations, toward all humane Laws in matters moral, or Religious, but of every single Christian also. And if this be not admitted, up goes Hobbism, and the Civil Powers may enact Deprivations, Excommunications, and Anathema's for mens refusing the Alcoran, Paganism, Socinianisme, and even Atheism it self, and for owning the Scriptures, Creeds, and Sacraments. But you, that thiak us such a soft and waxen generation, would have found this Right asserted even unto Martyrdom against all such deprivations, had they been enacted upon causes apparently injurious, or imposed on the Church. For in the late Reign not only you, but others also opposed the growth and menaces of Popery with a burning zeal, when we had no present prospect of any thing, but Fagots, Dragons, and most Christian Bridles. And that all these Armies of Worthies, should all of a sudden grow base, abject, and irreligious, cannot easily (I am sure not fairly) be presumed. But in cases, which the Church judges equal, she may concur and submitt, and when she may so do, it can be neither religious, or prudential to provoke, or incur a persecution by a needles and obstinate refusal, which is our Sense upon the Causes and Law of the present Deprivations. But is it not a pretty exception against this Concurrence, because it is yielded by Submission, not Authority? For did I ever assert

assert of an Authority in the Church to refuse her Duty, against which certainly there lies no Authority? And I told you, †

† Sol. and Ab.  
Pag. 28.

that the Church here concurs by Submission, as judging it her duty herein to yield to the State. But in such Cases if you will needs require the Churches Authority, I will remind you what

I told you † last time, that

† Sol. and Ab.  
Pag. 29.

*the Church has an Authoritative Right to judge in such Cases, whether she may, or must concur, or no. And hence a Right essentially belongs to it to examin all the Causes of the Secular Demands; so that if she finds there be no grave Reasons to move the Church to the required Severities, she ought to disobey, as my Lord Bishop of London well did, when required to suspend Dr. Sharp indictâ Causâ, &c. And for this I alledged out of Nazianzen one of the Noblest Instances in all Antiquity, wherein the Bishops of Cappadocia refused to depose, or reject the canonically settled Bishop of Cesarea, notwithstanding all Julians terrors and commands, of which I wonder Dr. Hody took no notice. But I add also, that if the Church finds those Causes sufficient, she may, if necessary she must admit the Laws enforcing them, and not wantonly pretend Authority against duty, nor use her liberty for a cloak of maliciousness. And I can never imagine, that this Right of the Church was ever suspected, much less opposed by any Powers or Legislators truly Christian.*

But if Civil Powers will make irreligious Laws in maters Spiritual, will you immediatly oblige the Christian Councils to invade the Senate House, or Courts of Civil Judicature with Protestations against their Procedures, before the Laws come home upon us, and press us to actual Concurrence? Surely the Primitive Christians did not so against the

the Edicts of Heathen Powers. For tho' Christianity will warrant meek and petitionary Apologies, yet will it not justify sawcy Remonstrances and Prohibitions upon Legislators, who must pass undisturbed and unaffronted in their measures, and we must with all meekness of behaviour wait the eventual prosecution of the Laws, if we cannot divert it by fair atonement; and when it comes, refusing calmly the required Sins, commit our selves, and Cause to *him that judgeth righteously*. So that all your Harangues about running into Parliament House with Proclamations, or Protestations for *our* against *their* Authority, are injudicious, immodest, and seditious proposals, tho' we had known the demands of the State to have been unlawful, which we yet acknowledge to be otherwise. And that we should cease to be a Church, because we are not officiously rude to the Legislators, who may sometimes happen to be causelessly unkind, or hard hearted to us! We are neither to precipitate our zeal, manners, confession, or sufferings, but let the will of God be done upon us, when his own time comes; Since even the vilest Laws of men have this obligation and validity upon the Consciences of Subjects, to restrain all indecencies, and disturbances against them, and the Legislative. For if the Senate has not Authority to oblige us to evil, it has to modesty, and abstinence from their Presence, and Consultations.

But *the Parliament thought their Authority alone sufficient to deprive the Bishops, and did not ask, nor think they wanted the concurrence of the Clergy to make their Act valid*, very well; they did not think so. And if you confine this sufficiency to a valid Obligation on the Church to submit, and concur, this opinion of the Parliament is very true, tho' I believe they ground it, not upon any

mere

mere pretended Arbitrary Despotick Power, but upon the Weight and Sanctity of the Causes, on which they founded the Law. But if you think it the opinion of the Parliament, that their Acts can actually pass into an Ecclesiastical Effect without Ecclesiastical Concurrence, you fix an opinion on them rather to be charged with Non-sense than Falshood. For if all the Bishops, Priests, and Christian Laity with them will adhere to those whom the Statute dooms to Deprivation, how can the Statute pass into an Ecclesiastical Effect? And so the Church ought always to do if they shall apparently persecute her Bishops for *Righteousness* sake, to hinder their temporal Laws from attaining an Ecclesiastical Effect against the innocent, whatsoever afflictions they may suffer for their opposition. And if ever Popery, Arianism, Socinianism, or Erastianism should (which God forbid) press it self upon us by Act of Parliament, I doubt not but our Church also will herein become Recusant against such Laws, and seal their Integrity with their Blood. So that in our Case the only Question herein is, whether this Law upon the Church to admit the Deprivation be unjust, or no? If it be in the Churches Judgment, she ought to refuse it; if not unjust, 'tis admissible. Now this we believe, and you the contrary, and God must judge between us; but in the mean time the Church must act according to her present Convictions.

*Dyscher.* But the form of the Statute is, that the Recusants shall be *ipso facto* Deprived, which must import the actual Deprivation to be completed purely by the mere virtue of this Act antecedently to the Concurrence of the Church.

*Encher.* I would willingly allow you, that this is the Sense of the Parliament, if you can clear it from Non-sense, of which I am not willing  
that

that great Assembly should be impeached. And I will also grant you, that the mere Virtue of the Statute alone can deprive them of their Temporalities without the Churches Concurrence. But perhaps all Decrees of Humane Power, in things dubious, and future, have this tacit, yet necessary Supposition, *quantum in nobis est*, as much as in them lies; for farther certainly no Power can go. And further as to the Spiritualities, 'tis possible the Parliament might intend no more than this, that the Recusants should be ejected, or quitted by the Church upon and undoubted presumption of her submissive Concurrence, or the Recusants own Cession, when the Temporalities were gone, and their Non-resistance to such necessary, and valid Laws. But the Senses of Statutes I leave to the Parliament, and the Judges, while yet you and I know our Ecclesiastical Principles and Obligations in matters truly Spiritual and Christian, and must act accordingly, whatsoever Lay-men or Lawyers think hereupon. And agreeably the Dean and Chapter of the Metropolitane Church, looking upon the Sees of the Recusant Bishops *de jure* vacant, discharged the Recusants of their Authority, by taking the Jurisdiction to themselves, which in such Cases they judged lawful by the Laws of God, as well as Man, as also Canonical according to our Constitutions; tho' herein they assume no ordinary, or proper form of Jurisdiction over Bishops not fallen *de jure* from their Sees; and you may very well remember,

† Sol. & Ab. p. 18.  
29.

that I noted against this expected Objection in our last Conference, † *that this was, and might be done upon judgment of Conscience for themselves, and the Church, but not of ordinary Jurisdiction over the Bishop.* And therefore you ought not to have charged this upon



upon us, as if we herein own such a Jurisdiction, which we disclaim, but have proved, that the Church may not upon just and necessary Causes desert her Bishop, over whom otherwise she confessedly has no proper, formal or ordinary Jurisdiction. It is most evidently plain, that, if the Causes be just, our Canonical and Legal Constitutions not only allow, but require such a Divorce from the fallen Bishop, and assign the Jurisdiction to the Church Metropolitane. Now if this our Constitution be irregular and invalid, why did the Deprived ever own it, till now the operation of it came upon them? And therefore, whether this imports such a formal Jurisdiction, or no, (which yet I deny) it cannot be reproached for Uncanonical without condemning our first Reformation, and those Models to which your selves have hitherto sworn Canonical observance.

*Dyscher. What I have said saves me the pains of reflecting further on what you say, in calling the Concurrence of some of the Clergy the Act and Concurrence of the whole Church of England. But how the whole Church of England can be represented, not only without the Metropolitan, and many of his Suffragan Bishops, by a number, no matter how many, of the inferior Clergy, in direct opposition and rebellion against their Lawful Superiors, how this can be justified to be a true and Canonical Representation of the Church of England, I leave to you to explain, and to distinguish from the gainsaying of Korah. Ms. Reflex.*

*Encher.* Except I much forget my self, I never asserted any number of inferiour Clergy-men to be Representatives to the whole Church of England, nor yet that the Bishops were deprived by the Representative Body of the whole Church; but this I say, that the actual Ecclesiastical ejection is performed successively by several Representative parts of the whole Church; as first by

R

the

the Metropolitan Church, and then the Diocesan Chapters representing their respective Province, and Dioceses. Now upon an Act for Deprivation, the See upon just causes becoming *de jure* vacant, the Course of our Ecclesiastical Politie is such; The Metropolitan Church first takes and deputes the jurisdiction, the Diocesan Chapters omit their acknowledgments of their former Bishops, and at length upon precept proceed to a new Election, Bishops upon this (except in mere Translations) consecrate the Elected, thence the whole Episcopal Colledge own the new, as do the Cathedral Clergy in their offices, and devotions, and all the Clergy in person, and the Laity by their representative Churchwardens in admitting the Visitations of the new Prelates, and executing their precepts Ecclesiastical, and all Lay-men personally own them, that receive their Confirmations, Benedictions, or any other Sacred Ordinances from them, or with them as Bishops. All which, being uniformly and peaceably promoted by these gradations, if of much more Weight and Efficacie than a mere Synodical Censure, before it has attained to such an actual consequent Reception in the whole Church. And therefore, when this Process is complete, we may truly say, the Bishops are Ecclesiastically outed, not by the Church representative, but by the Church original. And hence such a plenary consent of the Church diffusive against a few Bishops and Clergy, on the account of their Recusancy, must in legal and equitable construction be presumed to proceed from a common uniform Sense of their notorious incapacity and ineptitude, of guiding Consciences, and exercising Episcopal Functions and Authorities under the present State. And upon notorious incapacities the Church may alienate her self from the incapacitated, and  
recur

recurr to other Bishops for new Consecrations or Investitures, especially when justly required thereto by the offended Powers. And if any incapacity of exercising the Pontifical Authority had been upon *Aaron*, especially from disowning the Principality of *Moses*, (which is, or comes very near your Case) and *Korah* had opposed him purely on that account, that contradiction had never been recorded to his infamy, but his praise for ever. But as to your idle Question about complying with Usurpers, (which, like *Altar against Altar*, is the *Incipit Menalios* of your whole Ditty) as it has received full answers already, so here 'tis nothing to our present purpose, since our discourse now is founded on a Supposition of a due and full Settlement of Legal Powers in the State, which ought not to be charged with formal Usurpation.

*Dyscher.* We will then let alone at present the Disquisition of our capacity, and proceed further in our Enquiry concerning your Churches Concurrence.

*Forcass the Dean and the Chapter should not be strong enough, you call in the Convocation for help. And first you tell us, what your worthy Conformists did, and what was their opinion. But this is just the Proverb, Ask my fellow, if I am a Thief? But, say you, their sending a Convocation shews their Subjection, and condemns Recusancy as an Error. — But the silence of the Convocation, you think, will work Miracles; for that argues their opinion to be, that they were in this to yield*

Did they then in their Convocation make the least scruple, or vote, that their Concurrence was necessary to that Statute? No, not a syllable. But you tell us how they did it. The † Si- † Sol. & lence of the Ab p. 28. Convocation

under the Statute of Depri-  
vation argues their opinion to be, that they were in this to yield to the State. This is according to the old Proverb, Silence gives consent. And at this Rate the Statute of abolishing Episcopacy in Scotland  
R 2 mult

must be supposed to have it's validity from the Concurrence of the Bishops and Clergy there, for they too

are silent.

*But in good truth, have any Clergy men in England complied to an enacted abolition of Episcopacy here?*

And some of the inferior Clergy there, (but not half so many as in England) have complied. I

pray you

to answer me in plain terms, whether you do not think the Parliament in England to have as great Power as the Parliament of Scotland? And consequently might abolish the whole Order of Episcopacy in England, as they have done in Scotland? And for their Silence, it is a strange Plea. Have they liberty to assent without danger? I mean in England, as well as Scotland? And if Silence perforce argues Consent, then they are the freest Subjects of the world in France, and in Turkey, whose Mutes are happier by this Argument, and have greater Authority than our House of Commons. I thought Authority could not be exerted by Silence. Tho' the Turk will have his Executi-

to the State. And thus we are utterly undone with the Argument of Lovers and Fools, Silence gives consent. There must be many other concurrent circumstances, before the least consent can be presumed from Silence. For otherwise it is often a sign of indignation, scorn, sullenness, yea, even of obstinate denial it self. And what they meant by their Silence you may better guess, when you have resolved this *Quare*, whether you can reasonably think that they would have chosen him for their Archbishop, whom they refused for their Prolocutor? But what if they were not so silent as here you make them? 'Tis pity your memory is not better; for thro' forgetfulness you give in evidence against your self; for you tell us of a motion in the lower house of Convocation for the Restitution of the Bishops, and (then) suspended Clergy. — Now would any men take petitioning for men for appearing against them? But what if there had been none of this? Were ever Bishops deposed by Silence? T. B. Sec. Lett., pag. 39.

*Eucher.*

oners to be mute, he cannot command them by his Silence. If the King says nothing, when both Houses present a Bill for the Royal Assent, this is a refusal of that Bill. So that it is not in all Cases, you see, that *Silence gives consent*; indeed in no Case of Authority. That was a saying only adapted to the grant of some private favours, and is but a Jest, or Complement at the best. When the Church saw the Bill of Deprivation pass wholly and solely in the Name, and by the Authority of the State, they ought to have entered their Protestation, and asserted their own Right. Their Silence in that Case was an yielding up and betraying their Right, as it is if a Peer does not protest against any vote that passes, his consent to it is implied. And therefore the Churches Silence in that Case is so far from being an asserting of their Right, that it is against the common Sense and Practice of mankind so much as to alledge it. *M. S. Reflex.*

*Doth the King say nothing, when he refuses a Bill? or doth he return them a decent answer with promise of Consideration?*

*Eucher.* By what Arguments soever you are undone, that is to your selves; but I am sure I can find in you but few Arguments of Love, or Wisdom in this clamorous Rant, which seems designed in spite to the poor Proverb, lest your Silence should seem to consent. But since it is now my turn to break Silence, I will speak to this point but this once, and, if you will not, I will for ever hereafter hold my peace. First, then I must it seems talk of Silence, of which I am taxed, as if I had ascribed to it, not only Consent, but Authority too, and actual Deprivation, which are two points beyond the lines of the Proverb. Consider we then at first the proverbial Importance here in the Carriage of the Convocation. We were

\*enquiring into the Sense of \**Sol & Ab. pag. 28.*  
the Churches in common,  
which you excepting against challenged a Sense of our Convocations; and I tell you, *That their Silence under the Statute of Deprivation argues their opinion to be, that they were in this to yield*

to the State. But I, well observing, that bare Silence is Non-action, and mere nothing, and in it self simply of no determinate signification,

† *Grot. de Jure, &c.* in † conjunction with which  
 L. 2. c. 4. Parag. 5. this Non-action, or Silence  
 might legally and morally

be interpreted to a consent of yielding herein to the State. To this purpose I premised *the general Conformity of most Bishops, and Clergy, and Laity, that our sending a Convocation at their Majesties Precept shows, that we own Subjection to them;* and condemns the Recusancy as an [incapacitating] Error (for so I meant by softer forms of expresseion, that I might not gaul you) and so I conjoyn the Silence of the Convocation with those other positive indications, that it might joyntly ground a legal Argument, that in their Judgment they ought to yield to the State. So that you had united Circumstances enough to have fore-strangled your Cavils, if your prejudice had not blinded you. On the Session of the second Convocation the Recusants were in a State of actual Suspension, and the Day of Deprivation drew on. Now this the Convocation in their Judgment were to yield to, or oppose, for 'tis impossible but they must judge one, or the other to be their Duty. Now if they had been of opinion for the opposition, this must have been done by Synodical Remonstrance; if their Judgments was for the Submission, then they were to break no Silence to the contrary. Now then is not their actual Silence hereupon a legal token that they thought it their Duty to yield in Silence? Except we will perversly judge them silent against the Dictates of their Conscience, which if you will, it will lye upon you to prove it out. Whensoever things are brought into such a Strait, that either

ther Silence, or Contradiction must become a Duty, there Silence is as moral a Token of Consent, as Contradiction is of Dissent. And in all cases where either Assent, or Dissent is inevitably requisite, and the Rule is, that all Dissents must be express and protested, as the forms are in the *Lord's House*, and process of Actions in the Civil Law, there Silence in Law is taken for Consent. But here is yet more; the King had graciously conceded a liberty to the Convocation to propose their Grievances in order to his Royal Redress; So that tho' they had no Civil or Legal Liberty to remonstrate against the Statute, yet they had an opportunity to have presented an humble Supplication for a relaxing Expedient, or a Temperament, on just Security for the inoffensiveness of the suspended. Yet neither did they think themselves obliged in Duty so much as to break Silence in this manner herein; And must not the State then conclude, that the Church by this Silence thought it fit to yield? However I hope you do not think in good sadness, that their Silence did signify indignation, scorn, sullenness, or denial to the State. For 'tis true in cases of request and contract Silence is no grant of a Proposal, but Silence under a Law, together with a consequent Obedience to the Precept thereof, is an indubitable Token of Consent, which was the Churches case here, while silent in her Convocation, and obedient in her Metropolitcal and Diocesan Bodies. So much then for Consent; next for the Authority, which you say is not asserted, but betrayed by this Silence. But neither here can I agree with you: For as I never said, that Silence asserts Authority, so neither does it betray it. For your instance from the Peers does not import a Right betrayed, but only a Vote consented to by Silence, and this confirms my Observation, and refutes

you; For as the Silence of a Peer surrenders not his Peerage, so neither does such Silence in the Church forfeit; or vacate her Authority; No, tho' the Church had had Right to have entered the Parliament House with Votes, and Protestations. But suppose it for once, that the Churches Silence had betrayed her Right, see upon whom the Treachery must be most unfortunately charged. Did the Lord Archbishop of *Canterbury*, and his other Recusant Colleagues, that had a legal Right of Session in the Lord's House, enter, and enter a Protestation against the Validity of that Act, as wanting their, and the Churches Suffrage, or Synodical Concurrence? No, not a jot of this. And yet they, by their Station as well as Cause, ought to have been the first in the Protestation; which if they would not make for themselves, and the Churches Rights, then according to you they are Prodigitors; and so 'tis unreasonable in them, or you, to require the Protestation of others, less concerned, or obliged by their Order, Cause, and Principles. But the truth is, we had no just Cause, or legal Authority of making such Remonstrant Protestations, and so our Silence is not perfidious, but dutiful. Now this being so clearly stated, all your childish trifling upon French Subjects, and Turkey Mutes is very idle, and impertinent, since Silence does not indeed import Authority against, but Submission under Laws. Yet even in these *French*, and *Turkish* oppressions the Silence argues an opinion, that they, either in Duty, or Prudence, are to be silent, and quietly submissive. And this certainly was the Sense of our Saviour in his Silence, when he was led as a Lamb to the Slaughter. But to deal plainly, these Instances pertain not to our present Case; for here ours was Silence, and obedient Submission to the Commands of the State,



State, the comporting with which in Silence is a Consent to, and Comprobaton of its Justice, and is more than a meer silent Patience under unjust Oppressions. So inartificial and improper is the Objection from these poor Mutes, and Vassals. Thirdly, you assure me, that Silence is no Deprivation. No verily; nor did I ever hear that it was. But, to intercept your haste, whose Silence was I speaking of? And to whom did I ascribe the Ecclesiastical Acts of Deprivation? Why truly, I spake of the Silence in Convocation, as importing their Opinion, that they ought not to oppose the Laws of the State. But I never said, that the Convocation did deprive the Deprived. No surely; they sate not at the time, or on the Day of Deprivation. But I told you before, that the Ecclesiastical and Spiritual Acts of Deprivation consisted in the Metropolitcal and Diocesane Alienations, effected not by mere Silence, but Canonical Acts, and forms of procedure. And now let us see, whether my Memory hath failed me any more than my Cause. I here assert the Silence of the Convocation, but afterward told you, \* that a Motion for a Petition was stifled in the Lower House of Convocation, † tho' you clip my words on purpose to abuse me. For a Motion may be stifled before it is offered, by one, that knows, that it is intended to be made. But however an actual Motion of one Member may consist with the Silence of the whole Body. For if the Majority Vote Silence against the Motion for a Petition, the Convocation is silent, and silenceth all its Members, as to the Petition it self, tho' some brake Silence in the silenced Motion, but

\* *Sol. & Ab. Pag. 34.*

† *T. B. Repeats it thus, You tell us of a Motion in the lower House of Convocation; but leaves out the word [Stifled] fraudulently.*

but keep it after, thro' voluntary desistence, or Canonical Order. Now here in fact a Motion was offered by one excellent Person, but, upon the report then tendred to him of my Lord Archbishop *Sancroft's* request to the contrary, he desisted in Silence, tho' you however in this Conference have thus barbarously bespatter'd him, when there was just reason for your Silence. But however herein you own *T. B.* has a very contracted Memory too, when † he endeavours to discredit the Story of this Motion so flisted on the said Report.

† *T. B. See Lett. Pag. 42.*

But you have one Argument, that will confound me into Eternal Silence or Amazement, namely, that they that refused *Dr. Tillotson* for their Prolocutor, would not have consented to have had him their Archbishop. Well; be it so; what then? Perhaps, if the Election of Bishops had been freely left to our Convocations, they would have admitted few, or none of those, whom our Kings have advanced, but yet the Chapters electing have consented to the Legality of those Nominations, which they have not always judged so expedient, and the Episcopal Colledge have consented to their Communion, with the rest of the Clergy, as well in, as out of Convocation, as no doubt they will with the new Archbishop at their next meeting, without breaking any Silence against him by way of Dissent. And now at last I am come to your Questions about the Deposition of Episcopacy. And first you say, the Bishops and Clergy of *Scotland* are silent under the Abolition of Episcopacy it self, and twine that hereby belike they concur to that Act of Abolition. No; Brother, this does not follow from me, but according to you their Silence is a betraying their Right. But here again, you cannot distinguish the Case of quitting a Personal

nal

nal Right to an Authority, which is our Case, from the Abolition of the Authority it self Universally, which is the Case of *Scotland*. For they that can legally do the former, may not legally do the latter. For the King can depose the Judges, but not the Courts, and dismiss other Officers, whose Offices he cannot abrogate. And the Church can depose Priests, and Bishops, but not the Priesthood, or Episcopacy. And whether any Civil State has more intrinsick Power in the Spirituals of the Church, than the Church her self ever had in most perfect Freedom, judge you. But here I must Advocate for the Bishops and Clergy of *Scotland* against your Calumnies; For tho' they made no formal Protestation at Parliament, yet they assert their Episcopacy by an avowed Communion of their own, and a renunciation of the Presbyterian Model. But as to the Civil Power of abrogating Episcopacy here, I answer, 'tis as great as 'tis any where; but I find not our Parliaments to pretend to the same Opinions here as they do in *Scotland*, and I hope you will not require me to justify Scottish Pretensions. I think the Constitutions of our Orders are founded on Divine Rules, and have descended to us by Traditions truly Catholic and Primitive, which here we are not so rude to profane, or violate by any wanton Claims of Arbitrary Power; and in my Opinion the *Scots* will never acquit themselves well to God, his Church, and the King, till they copy after us, where Episcopacy is as well secured as the Scriptures, and Sacraments, and all the most essential Parts of Christianity. But if any of these ever happen to be persecuted here, I hope we shall remember Him, who on all such Occasions requires us to take up the Cross, and follow him. And now we are upon this melancholy Speculation of the Church of *Scotland*, I fear the Presages you have  
made

made from their fall, have been most influential with you to your present Recusancy to those Powers, from whom you expect our Dissolution. This, I confess, is a very deplorable jealousy, for which if there had been sufficient ground, (as there was not) yet this will not justify Recusancy to the Civil Powers. But the mischief of it is more than Personal, and Temporary, For hereby the Deprived Fathers, who by their glorious merits in the last Reign, might have been useful Mediators for the *Scotch Church*, and Promoters of our own, are now become incapable of this second Glory, and useless to the Churches happiness by this unfortunate Recusancy. But herein I charge no man's Conscience, but only bewail the infelicity. And shall pray, that the Goodness of God will so graciously dispose our Tempers, and Affairs, as in his own good time to set all things at Right, and shew us at length the Light of his countenance.

*Dyscher.* But let me put these things closely to your Conscience, do you verily believe, that your Church, and Chapters admit the Ecclesiastical Change upon the merits of the Cause, and not merely on the fear, or acknowledged Authority of the State?

*Eucher.* I do believe so in very deed just as I have spoken; and my reason is; because, had the Act of Deprivation past for recusancy of *Mahometism*, &c. and the Church would never have forsaken their Diocefans, nor elected any other even Orthodox Bishops, the Act for Deprivation being impious, and for that cause unobliging, and as loose as Dr. Hody's Rules, and as strait as your Principles are, I put it close home to his, and your Consciences, whether on a Case so put, or supposed, you can think the contrary?

*Dyscher.* Your jumble of *Queen Mary's and Queen Elizabeth Bishops* I shall not examine, be-  
cause

*because a full answer to that, either already is, or suddenly will come abroad.*

*Eucher.* This is what above all I have ever greatly coveted; and I have of late been so lucky as to meet with the Sense of † your excellent Author † *Part 2. Chap. 3. of Christian Communion on* *Page 33, 34.* this point. But because you have hinted to me my shortness of memory, I had rather have it repeated from your memory, that we may discuss it.

*Dyscher.* Indeed it was almost lapsed, but now upon your Suggestion I have recovered it, and will accordingly lay it before you. *As to this Case of the Marian Bishops, saith he, or of other Popish Bishops under Edward the Sixth, two things are to be noted in their removal and ejection out of their Bishopricks. One is from the Temporalities, the Benefices, and Preferments thereof; and these Temporal Endowments are directly subjects to the Temporal Power, &c. The other is from the Spiritual adherence and dependence of the People on them as on heads of Church unity and Communion for religious ministrations. And this there was no need to deprive the Popish Bishops of, for they had already deprived themselves of it by their own Corruptions, both in Doctrines, and Devotions. Adulterations of Religion, and corrupt ministrations of the word, of Prayers, and Sacraments, break the Ligaments, which tie on People to this adherence to any Bishops, or Pastors, yea, tho' they were Apostles themselves. Tho' we, or an Angel from Heaven preach any other Gospel unto you, than that which we have preached unto you, let him be anathema, or accursed, saith St. Paul Gal. 1. 8. — When therefore any Bishops, and Pastors, instead of heading Christian Truth, appear at the head of Un-Christian Errors, the people are discharged from their Obligation, and Dependence upon them, and are to unite*

unite themselves as they can to others, who still keep firm to that necessary Truth, and Gospel Worship, which they have forsaken. And this was done by the Popish Bishops, who fed the people with false Doctrines, and polluted Prayers, and Ministrations, which left no need of any thing more to deprive them of the Peoples Communion, and Dependence, these Papal Corruptions of Religious Ministrations being enough to discharge, and drive them away of themselves. So that the reformed Bishops, when they were set at the heads of those Dioceses, called none away, nor made them break off from any just and due Spiritual Dependence on their former Bishops, whose own heretical Doctrine, and corrupt Ministrations had made the people cease from depending any longer in Conscience upon them. They wanted only to be Lawfully empowered, and regularly ordained themselves by Episcopal Imposition of hands, as all those reformed Bishops plainly were, ——— and so were no Spiritual Intruders, nor guilty of any Civil Usurpation, or Injustice. ——— But where Bishops are Orthodox, and are deprived for their adherence to Truth and Righteousness, both in their private Practice and Publick Ministrations, the people are still left Spiritually to depend on them. ——— And so we our selves should have thought, at least we all seem, as if we should, if by Gods Providence the Civil State had gone on to deprive our reformed Bishops for sticking to the Doctrines and Worship of the Reformation, and had set up Popish Bishops in their places, &c. *Vide.*

*Encher.* This Doctrine of that learned Person must be admitted with a grain of Salt, or else it will be very unwholesom, and prove very convulsive in the Ecclesiastick Body. For tho every single Christian is to abhor, and desie all false Doctrine, condemned by the unanimous Sense and suffrage of the Universal Church from Divine Authorities, yet single Persons cannot distributively,

tively, and alone reject their Bishops as not Bishops for heretical Opinions, or corrupt Ministrations, which the general Body, and all Orders of the Church do not uniformly censure irregular, and renounce their Authors, except a just and regular Sentence pass in form against them. When Churches are concorporated into Provincial and Diocesan Unions, there must be some public conduct for the diffusive multitude, to a due discussion of Principles in order to such Divorces. Thus of old, when grievances arose from suspected Bishops, the people appealed to Synods to judge upon their Cause, but in Cases notorious they addressed to other Churches, Bishops, and Synods to allow their necessary Rejection of their irregular Bishop, and ordain them others. And this usage was as common as useful, till the Papal Usurpations rendred it impracticable in the Western Church, and so necessitated extraordinary forms of reformation. For here the Prince, and the People, and a great Body of the Clergy, having an Ecclesiastical Cause of Controversie against the *Marian* Bishops, unrelievable by any fair domestic, or foreign Synod, were forced, upon the Notoriety of the Evil, to use extraordinary measures of purgation, not by rabble, or incoherent Partitions, but by a National Judgment in Parliament, as a middle expedient, as well against intestine Schisms, as Romish abuses; upon which discharge of Papal Tyranny, a way was opened to that true and uniform Sense of true Religion, which the whole emancipated Church presently received with a glad and chearful Uniformity, which was a felicity however not atchievable by a loose unorganized Multitude. Since then the whole People of this Land did in their National Senate Vindicate the pure Religion established in former Convocations from the *Marian* Bishops, the enacted Deprivation was de-  
their

signed more against their Spiritual Conduct, than their Temporal fortunes, and the People followed that publick intention, not their own private counsel in the reception of new Bishops, and the models of reformation. And herein such measures of prudence were observed, which cannot be secured in a promiscuous multitude, which I wonder that Author did not consider. For a Priest is not immediatly upon dropping of an Error materially heretical to be taken by all at random for a formal and self-deprived heretic, or *Anathema*, but he must be previously heard, and admonished, and only upon incorrigible Obstinacy to be rejected, with appeal unto God, and an apology to all Churches, or Spiritual Fathers unconcerned, and untainted. But then this is a Canonical form of exauctoration by the Church, not a formal Self-deprivation; otherwise upon this Authors Principle, all the Hierarchy of the Romish Communion was long self-deprived before the Reformation, and totally exauctored, and how then will he justify our Episcopal Succession? For such *ipso facto* irregularities, that are so in their own nature, and not by mere Canonical Ordinance, degrade as well as deprive, from not only Order, but Communion, to which of old upon Penitence they were wont to be restored, not as Priests, but as Laymen, for that such a fall was an *ipso facto* Degradation of Order, in which there were to be no public Penitents. But now, if we make such Deprivation the Act of the Christian People, as we must, then it, and all the previous process thereunto must be executed by some formed Session, or Council for the Place and People concerned; but for the whole People of this Land we have no Council but that of Parliament. And here it must be noted, that a Christian Parliament hath as much Spiritual Right against heretical Priests as the common Christian Multitude, and



and if the Multitude may on such notorious Corruptions eject one, and procure another Bishop, even without the Consent of civil Powers, according to this Authors Doctrine, surely such Right much more belongs to the Christian Legislative, to which the Care of Religion does by Divine Ordinances belong, as well as to the Hierarchy, and common Multitude, which had a real need of their Counsel and Conduct in so great a Difficulty. The People therefore in Parliament did their Part in the Ejection of the *Marian* Bishops, and all the Chapters, and other Ecclesiastical Orders sequaciouly concurred, and completed the Design of that Act in their Alienation from the condemned Recusants. And tho' all this was done for refusing the Oath of Supremacy; yet that Recusancy being grounded on false Principles in Religion, and maintained in Defence of the Romish Usurpations and Corruptions, the Statute of Deprivation had not only a civil Intention, but Religious also, and was received accordingly. But all this while I find no Answer to that famous Passage

quoted by me † out of Dr. † *Sol. and Ab. Hammond's* Tract of Schism, *Pag. 32.*

tho' of so great Moment, and of so great Strength to justify such Statutes of Deprivation for the Security of the civil Government against Seducements and Seditions. But if you would take my Counsel, I would advise you not to lay the Cause of this Controversie in Points of Religion, nor make common People the Judges of them, for fear of a Snap, that perhaps you are not aware of.

*Dyscher.* What, what do you mean? I am a little startled at this Suggestion, since we are where we were, and have neither altered the old Doctrines, nor the Practices they direct to;

*Eucher.* Do not you remember, that that great Man who wrote the Vindication of the Deprived Bishops, vehemently argues, † that not only Errors, whether great or small, but even unnecessary Truths become Heresies, when they are made the Causes, or Characters of different Communions? And such all Principles and Rules of Christian Morals enforced on peril of Sin and Damnation, not required by the word, or law of God, must in their own nature be. And thus in the ancient Church all rigorous Doctrines, which made sins where God hath made none, draw after them inevitable Separations, and so became Heretical.

† *Vindic. of Depr. Bish. pag. 24. 25, 26, 27.*

*Dyscher.* Well, how doth this affect us?

*Eucher.* I am afraid in all your Principles, which make our present Allegiance Illegal, and Irreligious.

*Dyscher.* I pray form them into propositions, and make your convictive Strictures upon them, if you can.

*Eucher.* I take no delight in such an Employ; It is no pleasure to me to wound, or grieve you, but as the setting before you the danger of your Principles may correct the precipitancy of your Zeal, I will obey, and observe your direction. First then,

*Maj.* Whosoever teacheth Men not to be subject to the Human Constitution, and the Authorities that are, as Gods Ordinance, teacheth practical Errors;

*Min.* But so you teach Men against the present Constitution, and Authorities; *Ergo.*

*Concl.* You teach Men practical Errors.

Again in another Form;

*Maj.* Whosoever teacheth it to be Perjury to swear Allegiance to a new settled Sovereign upon the

the

the Desertion of the former, to whom we had sworn Allegiance, teacheth practical Errors;

*Min.* But such is your Doctrine, (contrary to Bishop Overals Convocation book) *Ergo*. Concl. You teach practical Errors.

Again in another Form;

*Maj.* Whosoever teacheth to disobey Princes fully settled in a Government procured by ill means, teacheth practical Errors;

*Min.* But so do ye in the Reasons of your present Recusancy; *Ergo*

*Concl.* You teach practical Errors.

Again in another Instance;

*Maj.* Whosoever teacheth Men not to pray for Kings, and all that are in Authority, teacheth Men Practical Errors.

*Min.* But so teach most of you in the Reasons of your present Recusancy, *Ergo*.

*Concl.* Most of you teach practical Errors.

Again in another Instance,

*Maj.* Whosoever teacheth Men presumptuously to speak evil of Dignities, teacheth practical Errors;

*Min.* But so do most of you; *Ergo*

*Concl.* Most of you teach practical Errors.

Again in another Instance,

*Maj.* Whosoever excommunicates, or teaches Men to refuse Communion with Men, that have sworn Allegiance to Powers fully settled, acts upon, and teacheth practical Errors

*Min.* But so most of you act, and instruct Men against our Communion. because we have sworn Allegiance to the Powers fully settled over us; *Ergo*

*Concl.* You act upon, and teach Men practical Errors. And now, considering all, wherein I have answered you, what can you say hereto?

*Dyscher.* I answer, we do not deny any of your Major and general Propositions, but we deny  
S 2 your

your *Minors*, that we teach such Doctrines for our Recusancy. But we teach, that those *Major* Maxims do not affect our particular Case, for that these are not Constitutions, Authorities, or Dignities fully settled, on which the Church according to the Apostles requires respect, and obedience.

*Eucher.* This is like those prevaricating Salvo's, which your Author of Christian Communion upbraids us with, † in eluding general Precepts from influencing in particular Cases; but to omit this, I have however gained another advantage, and success by my Advice, *viz.* that in the matter of Allegiance you must quit your Pretensions to Ecclesiastical Doctrines as the grounds of your Recusancy, Deprivation, and Separation; and consequently there is an End of your low and causeless Clamours for your glorious Passive Doctrines as the Cause of your Sufferings; all the remaining Question now being between us, whether the present Constitution be fully settled, which is a Point of Law, not Religion, to be resolved by the State, not the Church, by the Court Civil, not the Court Christian. And hereupon such Civil Judgments are to be secured by Religion, and Conscience, while they stand reversed, and so you are obliged to acquiesce in the Judgments of our Parliaments in this Point. But while you oppose this upon Principles of Conscience, consider the Danger of Heresie, which lies before you.

*Maj.* Whosoever teacheth Men to oppose the Course of public Judgment in Civils upon private Opinions to the contrary, teacheth Rules of Sedition against Civil Government it self, and in them practical Errors;

*Min.* But you teach Men to oppose the public Judgment of the Nation for our full Settlement in the present State; *Ergo*

*Con-*

*Concl.* You teach Rules of Sedition against civil Government it self, and in them practical Errors.

Or thus in another Form.

*Maj.* He that teacheth Men to act against confessed Principles of Truth, ought to be exauctorated;

*Min.* But you teach Men to practice Disobedience contrary to those Principles of Truth, which you are forced to confess, *Ergo*

*Concl.* You are to be exauctorated.

Now I cannot for my part see how you can avoid this Charge, which your own rigours against us have extorted from me. And yet I have urged it for no ill Ends, but only to lay before you the ill Aspects of your Division, upon those your very Principles, in which you glory. For here I can more justly enclose you with your Vindicator's *Dilemma*, viz. that if you separate without Principles, you are then Schismatical, if upon Principles, you incur Heresie. But if this be so, the Church and State may according to your own Rules eject you without a Synod, which I compassionately beg you tenderly to consider.

*Dyscher.* Well, let our Cause be what it will in Fact, or Opinion, I look upon these Lay and Parliamentary Forms of Deprivation, to be very dangerous to the Spiritual Franchises of the Church, tho' we suppose, that such servile and gradual Concurrences of the Church do give them an Ecclesiastical Effect; for that they destroy out of the Faith of Christians the Sense of those Spiritual Liberties and Authorities of the Church, that by a Divine Charter, and an Apostolic Descent, belong to her; and instil a fatal Erastianism into men's Principles, and for that Cause ought not to be received, but censured by the Church; for that your Party founds their Authority on this

false Proposition, that the Church and State of *England* are the same Society, whereas there are many Subjects of the State, that are no Members of the Church, as Apostates, Papists, Heretics, and all unbaptized Persons. Tho' yet were this Hypothesis true, that all the same persons were equally Members of the Church and State, yet as they are a Church, and spiritually sociated, they must be governed by a Spiritual Authority, and as a State, by the Civil Power of the Sword; nor must the identity of the People confound the Distinction of Powers. Besides, as we are a Church, we are of Right sociated into the unity of the whole Catholic Church, to be maintained by an uniform Ecclesiastical Conduct, the only ligament of Catholic Communion; but as we are a State, the Catholic Church is not concerned with us, to take any Cognisance of our Civil Procedures, but if as a Church we corrupt the Ecclesiastical Government into Civil, we break off, and excommunicate our selves from the Catholic Unity by deserting the Catholic Forms and ties of Union.

*Eucher.* As to that Principle of the Identity of Church and State, and the Consequences Men draw from thence to assert the Right of Civil Authority in Spiritual Processes, I leave it to them, whose Heads are clear enough to justify it. But, for my own part allowing your exceptions to the contrary, yet our Case has justified it self *ex natura Rei*. And I must further advertise you, that this Church has long submitted to the use of such Powers over us, and that fundamentally in *Q. Elizabeth's* Reformation, and in many other matters in which the State had not so much pretence of Right, or Necessity, all which have passed uncensured by us, but in this, whether well, or ill, God must judge. The Sub-

scrip-

scription of a Popish Clergy to avoid a *Premunire* drew after it such Acts of Parliament, as thro' which we can make no provision for the Church, nor move a question for her good, without Royal License, nor have so much freedom in our Concernments and Duties, as every little Corporated Burrough has in it's voluntary Councils; which, tho' it be a tolerable Condition under a good King, that has a Zeal for Christianity, yet under an Irreligious King 'tis an absolute Bondage, and bar to the Primitive Purity, Course, and Vigour of Religion. In the Reign of *Edward* the VI. they struck out the Ordinaries names out of all Processes Ecclesiastical, and set in the Kings, as if all Church Power had been derived from the Crown; the non-payment of Tenth, tho' omitted by mere neglect, and not on any Principle of Opinion, remains yet a Cause of Deprivation. And those shackles, which the State of old thought necessary to restrain us from Popery, now the reasons of that Conduct are cessant, become great Obstacles to the Primitive and Catholic Reformation of our yet remaining defects, of which this Church, upon a just liberty and Authority restored her, would become the first Example, and the noblest Standard. Yet all this Subjection we have born in Silence, tho' hereby only can Popery be reduced, whensoever a Popish Conjunction shall arise upon us; and no Body has yet dared to offer a good mediation with the Public for a Temperament in these things. And if our dulness herein has not been by us, or you accounted Schismatical, shall we be judged Schismatics in admitting these much more reasonable Deprivations, in which the Lay-powers are concerned not only in point of Care and Interest, but even in certain and undubitable measures of Right?

*Dyſcher.* How ſo, Sir?

*Eucher.* As the State is the Churches Hospital, ſo a Corporal, or Civil Communion is ſubſtrate to the viſible Communion of the Church. For tho' I allow you, what you \* juſtly challenge to the innocent, a \* *Sol. & ab. pag.* primitive, fundamental, and un- 25. deniable Right to good, as well in common, as in conſecrated Places, yet it is certain, that in order to this Claim they muſt give all juſt ſecurity and aſſurance of their innocency, upon Teſt demanded by the Civil Powers, that are Guardians of theſe fundamental Liberties to all good Subjects; of which innocency an Oath of Allegiance ſeems the moſt obvious, proper, and uſual Form of ſecurity between Subjects and Sovereigns. Otherwiſe the Civil Powers may reſtrain thoſe Liberties, of which they are the Truſtees. Thus a Civil Sovereign may prohibit, and puniſh all converſation with the Enemies, or Recuſants of his Civil Authority. Now converſation ſimply in it ſelf alone is a ſecular communication, but abſolutely Fundamental to the Eccleſiaſtical, which is a viſible Communion in Spirituals. Though then the Secular Authority alone, as ſuch, does not touch the Spirituals, yet it may upon juſt and legal Cauſes take away all that ſecular and local Communion, that is ſubſtrate to the Eccleſiaſtical. And he that may upon Recuſancies of Subjection forbid all perſonal Communication with a Recuſant, may forbid it in any certain Place, Time, Matter, or Meaſure, and conſequently at all ſuch Times, and Places, when, and where the Recuſant may call upon him to attend in Spirituals. But this Right, and Authority of the Magiſtrate I lodge not in arbitrary will reſpectively, but on the nature and merit of the provocation. And the Right, which the Chriſtians have to the Liberty of their Sacred Functions,



Functions, is not peculiar to them as Christians, by a Charter altogether unconditionally exempt from Civil Powers, and so a Right of Gods positive constitution in the Church, as a Society founded by Christ, liable to no secular Reflections for any Cause whatsoever; but is a common, and natural Right to all Persons of clear and unspotted innocency, as such, to do that which is good, originally due to them from the Creation. And hence Civil Powers, becoming Judges of our Morals and Innocency, are Guardians of that natural Right, but may justly deny it to others, but will not approve their innocency by due Tests to the Public Peace of the Government, to which Recusants therefore the rightful Capacity Ecclesiastical Communion is lost, when the natural Right to Society is, either totally, or in the proper opportunities of sacred Communion, justly denied by the Civil Powers. And to say true, he that by ill Principles, or Practices deserves the loss, and deprivation of all common Society, much more deserves the deprivation of the Spiritual, that stands as a Super-structure on the other. And therefore if our ill merits Authorize the Powers to take away at the bottom the Foundation of our Religious Communion, they can, tho' not directly, and immediately touch, yet undermine the spiritual Structure, by destroying its secular Foundation, which lies within the Authority and Care of Civil Powers. So that in this respect and form an *Heathen* Prince may rightly deprive (seditious, or disloyal Priests of the Privilege of actually using their Ecclesiastical Functions, by rightly denying them so much secular Society, as is Fundamentally requisite to the exercise of them. And thus far a Statute of Deprivation may have this Civil obligation, that no Subject shall yield corporal Communion with Recusant Priests, when they call him to sacred Offices any where, and Laws may shut them

them out from consecrated Places, that there may be no such local Society in them. And if such Recusancy against civil Powers be notorious, confessed, or avowed, then is such Act of State both just, and civil only, but at the same time, the bottom of the Recusants Ecclesiastical Offices is righteously, and validly taken away.

*Dyscher.* Well, well, notwithstanding these Subtilties, yet the Temporal Powers cannot take away the actual Relation between Priest and People, tho' they may suspend, or incapacitate them hereby from the actual Ministeries of their Orders; And so hence accrues no Right to civil Powers to impose new Bishops on the Church.

*Eucher.* There are two known Canonical Causes of depriving Spiritual Persons, Immoralities, and erroneous Principles. So that; if either of these hath merited, and drawn after it a Forfeiture and Deprivation of all that secular, and local Communion, and Society, which is necessary to the sacred Functions, the Church upon certain Notoriety of that Guilt, Forfeiture, and civil Incapacity, may elect, and consecrate others, who have contracted no such Blemish, or Incapacity. Nor needs there here the Judgment of a Synod, (as is confessed in the like Case of *Callicinus* and *Cyrus* before mentioned) which is only necessary to discuss and determine things dubious in Fact, or Right. So that in such Cases, where there is no Rule set to the contrary, the Church on her old original Liberties may of her own accord proceed to a new Promotion, and I think ought to do so, when the Blemish, and consequent Incapacity are irremediable. And what the Church in freedom may do without Command, she may do when commanded, even by those Powers, which have no direct Right to manage our Ecclesiasticals, as Infidel, and Un-

Un-Christian Powers have not. Yet indirectly, I grant, a new Settlement in the Church may be necessary to the weal of an Un-Christian State, which then has an indirect Right to command the Church within it to fill the Vacancies, and then she is in Duty bound to obey, not only for Wrath, but also for Conscience sake, whensoever so commanded, as having no Authority to oppose those actual Reasons, or the civil Causes of such the secular Commands, so that in the lawful Vacancy she must be obedient. And if this be a just Rule for the Christian Church under Un-Christian Princes, much more ought it to be so under Christian ones, to whom, as nursing Fathers, you know our Church gives great Homage, and Deference. Have you any thing more to object?

*Dyscher.* Nothing at all, except you will hear me repeat the three last Pages of *T. B.* spent wholly in charging you with soliciting our total Ruin, and Misusage of your deprived Metropolitan, and Diocesan, on their refusal of a Petition, with the same pernicious Design; but because I must confess you were most carefully tender of censuring the Counsels of those Fathers, and *T. B.* discovers himself too openly calumnious in those Impeachments, I have done, and commend us all to God's Grace and Mercy.

*Eucher.* *T. B.* is one of those Men, who love to speak evil of Dignities, and the things they know not, supplying the Narrowness of his Understanding with Rage and Bitterness, for which I heartily remit him to God's Mercy.

But as for your Fathers, and all the venerable Numbers of good Men fallen in this Change, I compassionately beseech them tenderly to lay these things to heart, and unanimously to think of some healing Expedient for our mutual Peace, and Joy. There have been, who, upon the bare dry  
In-

Inferences of their Arguments, have desired them to desist, and quit claim only, which is to ask, not shew them Charity. But might it not be thought too assuming, I think, I could propose such a certain Scheme of Resolutions, as would so effectually close up our present Wounds, as to turn all our Sighs and Sorrows into Joys, and the Voice of Melody. But being conscious of my Station, and Measures, and doubtful of your Misapprehensions, I forbear, and leave you, and your Counsels to the Divine Conduct, and your own Piety, that you may happily recover that Union, from which your Errors and Infirmities have too much alienated you, being willing to hope, that (as St. Paul said of Onesimus) *Perhaps you are departed from us for a Season, that we should receive you again for ever.* Amen.

#### A D V E R T I S E M E N T.

**W**Hereas *T. B. Sec Let. pag. 29.* and the impartial Reflector, vehemently contend against my Suggestion in *Sol & Ab. pag. 11.* that *K. James's* Dispensation with the Oaths of Allegiance and Supremacy might look like a Concession to us to transfer our Allegiance, they dealt with me disingenuously, for that I made for them an effectual Answer against that Argument before, in which my Conformist silently acquiesced. And that Answer I made is stronger and sincerer than theirs, which I could teize to purpose, were I minded to wrangle. But as I made *Eucheres* abide by just Reason then, so will I use no perverseness now. And in truth that Passage was brought in, not with a Design to insist on it, but only to introduce it for a smoother Passage to the Liberties granted us by *K. James's* Coronation-Oath. For which Cause I, laying no stress upon that Argument from the Dispensation, have wholly omitted to contend with my Adversaries on it in this Debate,

I hope

I hope the wicked Surmise of *T. B.* that His Majesty would murder the Princess of *Denmark* and the Duke of *Gloucester*, (Sec. Lett. p. 22) if her Royal Highness should outlive the Queen, is now fully refuted since her Excellent Majesties Death, and it will become *T. B.* repent for it in Dust and Ashes.

*A Postscript to Mr. Richard Chiswell.*

SIR,

**S**ince I was once an Author of yours in Solomon and Abiathar which you Printed, and this very Debate was offered to your Edition once Anno 93, which you declined with thanks to me however for the respect; I desire you to consider what an ungrateful office you have undertaken in publishing a Reproach against me and these very Books, in the University Man's Postscript to you. I am not offended at this miscarriage in you that are a Man of Interest; but yet as you may justly reprove your self, and your Solicitor, for this indecent way of abusing your own Authors and Books, so I challenge you for a witness of the Falshood he has caused you to Print. Look upon my Letter to you sometime in the Summer, 93. and therein you will find this Book offered you, which this University Man tells you, (and by your Press the Nation) that it was written since the Book remarked on to secure my self against a Storm. I shall make short however, and desire you to remember my love to him, and tell him, that it is the most undecent sort of confidence in him of all Men living to despise any Man's Writings for the present Government, and to accuse any Pen for Brutality towards the Jacobites. He will know the meaning at your first suggestion by  
the

the interpreting Conscience within him, or that part thereof that is left. And so I dismiss you with assurance that I am

Your much obliged Servant,

S. Hill.

### A General Remonstrance to all Good Christians.

**I**N the name of God, the Sovereign Lord and Judge, I remonstrate and protest, that I measure not any Men by their Fortunes, but their Merits, and that the Sufferings of good Men increase my Affections towards them.

2. That I published Solomon and Abiathar, not for worldly Interest, nor with any injurious design, nor thro' a vanity of Affectation; but on purpose to get satisfaction from the learned in the Right of Communion to the avoiding of Schism.

3. That particular provocations made that discussion, and it's publication absolutely and inevitably necessary.

4. That after its Publication I waited two years for Satisfaction before ever I entred into the present Communion.

5. That the Meditations in this Debate have satisfy'd me, that our Communion is consistent with the most Catholic and Primitive Rules, or else I could not have joyned in it.

6. That for my own part I renounce all Ecclesiastic Servitude, and all Principles leading there-to; and I do declare for an assertion of the Rights and Liberties Hierarchical in contempt of all Persecutions,

secutions, yet not to arrogate that Liberty as a Cloak for Maliciousness.

7. That tho' Calumny urged the Publication of this Debate, yet that alone should not have prevailed thereunto, had I not thought it of good use to reconcile Dissensions, and to obviate many growing Prejudices.

8. That tho' it be a public blemish, that the great Authors of our present Heresies are not yet censured by Authority, yet this does not illegitimate our public Communion with the Innocent, who have no power to reform it, nor can it in the least affect those that make their uttermost remonstrances against it.

9. That all Spiteful and Insincere Writers on the point of Communion design to widen our Breaches, and are therefore utter Enemies to the Church of God, and their Native Country.

10. That tho' I had many inducements to have collected all T. B's. Flowers of barbarous and unparalleled Railery into one view, yet that the odium thereof may not reflect any prejudice on the better part of that side I have forborn, remitting him to the friendly correction of his wiser and better Brethren, and have so endeavoured to temper this Discourse, as that all along Mercy and Truth might meet together, that Righteousness and Peace may kiss each other. Amen.

After all, whosoever is not satisfied to the full may hereby be however induced to beware of censuring us for Men wilfully Perjured and Schismatical, since I suppose the reasons here offered are not all contemptible, but may justify the Author in his Design of quitting himself from the guilt of those black and horrid Imputations, the natural Right of every suspected or accused Innocent.

FINIS.

---

*Books Printed for John Everingham at the  
Star in Ludgate-street.*

**T**HE Spirit of Jacobitism or, Remarks  
upon a Dialogue between K. *w.* and  
*Benting*, in a Dialogue between two Friends  
of the present Government.

A Sermon Preached before the H. of Lords  
at the Abbey-Church of St. *Peter's Westminster* on *Thursday* the 30th. of *Jan.* 1698. be-  
ing the Martyrdom of K. *Ch. I.* By the Right  
Reverend Father in God *Humphrey L.* Bishop  
of *Bangor*.

A Sermon Preach'd before the House of  
Lords, at the *Abbey-Church* of St. *Peter's westm.* on *Wednesday* the 11th. of *Dec.* 1695.  
being the Day Appointed for a Solemn Fast  
and Humiliation, by the Right Rev. Father  
in God *James L.* Bishop of *Lincoln*.

Eight Serm. Preach'd on sev. Occasions.  
1. Of the Power and Efficacy of Faith. 2.  
The danger of Mis-informed Conscience, or  
Mistaken Principles in Religion. 3. Of the  
Different Dispensations of Grace and of Im-  
penitency under the best Means of Salvation.  
4. The Case of a late or Death-bed Repen-  
tance. 5. The Streight and Certain way to  
Happiness. 6. Of Growth in Grace. 7. Of  
Murther particularly Duelling and Self-Mur-  
ther. 8. Of the Shortness and Instability of  
Humane Life.



the

marks  
and  
ends

ords  
min-  
be-  
light  
shop

se of  
eter's  
695.  
Fast  
ather

ions.

2.

e, or

f the

f Im-

tion.

pen-

y to

. Of

Mur-

ty of